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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Fourteenth periodic reports of States parties due in 1996

Addendum

Germany*

[1 May 1996]

* This document contains the thirteenth and fourteenth periodic reports of Germany, due on 15 June 1994 and 15 June 1996, respectively. The eleventh and twelfth periodic reports of Germany, which were submitted in a single consolidated document, and the summary records of the meetings at which the Committee considered these reports, are contained in documents CERD/C/226/Add.7 and CERD/C/SR.999 and 1000.

The annexes and reference documentation provided by the Government of Germany may be consulted by the members of the Committee in the Secretariat's files.

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I. GENERAL

1. For the Federal Republic of Germany the ban on discrimination on the ground of race follows from the right to human dignity. Human dignity is recognized and guaranteed as a supreme legal value in the Basic Law of the Federal Republic of Germany (the "Grundgesetz - GG"), article 1.

2. Article 3, paragraph 3, first sentence of the Basic Law provides as follows:

> "No one may be prejudiced or favoured because of his sex, his parentage, his race, his language, his homeland and origin, his faith, his religious or political opinions."

3. The protection of all people against discrimination, particularly by reason of origin or of race, is an objective of pre-eminent importance in German law and politics.

4. The Federal Republic of Germany ratified the International Convention on the Elimination of All Forms of Racial Discrimination as long ago as 1969.

5. The German Government has since presented 11 reports to the Committee on the Elimination of Racial Discrimination. By agreement with the Committee it consolidated the eleventh and the twelfth reports into one report following reunification of the two German States. In that report the German Government extensively informed the Committee about the legislative, judicial, administrative and other measures that State bodies in the Federal Republic of Germany were taking to prevent and eliminate racial discrimination. When the eleventh and twelfth report was discussed the German Government answered the Committee's additional questions in detail.

6. Recently the German Government submitted observations to the European Commission against Racism and Intolerance, which had sent a questionnaire to member States of the Council of Europe. In its reply it explained its attitude to racism, xenophobia, anti-Semitism and intolerance. In doing so the German Government outlined the economic, social and political background to the phenomenon and its manifestations. Further, it reported on the various measures that have been adopted in all political and social fields in Germany to curtail racism, xenophobia and intolerance and to protect the ethnic groups affected. The German Government's reply is contained in the annexes.

II. SPECIFIC MATTERS

A. Article 2 of the Convention: protection of individual ethnic groups in the Federal Republic of Germany

7. The principle of equality and the ban on discrimination in article 3 of the Basic Law are binding on the legislature, the executive and the judiciary as directly applicable law. By virtue of article 19, paragraph 4 GG, anyone whose rights have been violated by public authority may have recourse to the courts.

8. As already stated in the preceding reports, the Federal Government considers the groups whose adequate development and protection is supposed to be ensured pursuant to article 2, paragraph 2, of the Convention to be groups within the German population who differ from the rest of the German population particularly because of their national origin or for other reasons. Hence, in its reports, the German Government gives the Committee information on the Danish and Sorbian national minorities and on the other ethnic groups traditionally resident in Germany like the Sinti and Romany and the Friesians. Also, the Committee is kept informed about the Jewish community in Germany.

9. Members of these population groups who have German citizenship enjoy all rights and freedoms under the Basic Law (see also the introduction to art. 5) without any restrictions. In addition, there are special provisions under constitutional and ordinary law, inter alia for the protection of identity, for the Danes, Sorbs and Friesians concentrated in areas of settlement in the States of the Federation (the "Länder"). All four ethnic groups are given considerable assistance - corresponding with the distribution of responsibilities under Germany's federal State system. Here special attention is paid to the particular situation and specific needs of the population group concerned.

1. Protection of national minorities and other ethnic groups traditionally resident in Germany

10. Germany considers the protection of minorities to be of great importance for preserving peace in the international community and for beneficial coexistence within States, and it translates its obligations into reality. For this reason, the Federal Republic of Germany signed the Framework Convention for the Protection of National Minorities at the session of the Committee of Ministers in Strasbourg on 11 May 1995. When signing, the German Government, with the agreement of the Länder of the Federal Republic of Germany, made a declaration on the area of application of the Convention in Germany after ratification. This declaration is worded as follows:

> "The Framework Convention contains no definition of the notion of national minorities. It is therefore up to the individual Contracting Parties to determine the groups to which it will apply after ratification. National Minorities in the Federal Republic of Germany are the Danes of German citizenship and the members of the Sorbian people with German citizenship. The Framework Convention will also be applied to members of the ethnic groups traditionally resident in Germany, the Friesians of German citizenship and the Sinti and Roma of German citizenship."

(a) The Danish minority

11. South of the German-Danish border there is a Danish minority of about 50,000 people in the northern part of the Land of Schleswig-Holstein (i.e. in the Schleswig part). Profession of Danish culture, language and tradition is free - in line with the Bonn-Copenhagen Declarations of 1955 - and may not be disputed or reviewed ex officio. The Danish minority's right to protection and assistance is anchored in the Constitution of the Land of Schleswig-Holstein.

12. The Danish minority's political organization is the South Schleswig Voters' Association (the "SSW"). In the elections to the Landtag (Parliament) of Schleswig-Holstein in 1992 the SSW polled 28,000 votes. As the party of the Danish minority, the SSW is exempt from the application of the 5 per cent blocking clause and has one seat in the Landtag of Schleswig-Holstein. The member representing the SSW also has the status of a parliamentary group. In the municipal elections of 20 March 1994 the SSW polled about 38,000 votes, so it has about 160 representatives of the Danish minority in municipal parliaments. In their area of settlement the Danish minority also have two mayors, one head of a local office, several deputy mayors, one deputy council chairman and several deputy chiefs of local administration.

13. The principal cultural organization for the Danish minority is the South Schleswig Association (the "SSV") with about 17,000 members. In addition, there are organizations and institutions covering all areas of life. Hence the Danish minority have their own Church parishes, a library system, social institutions and a Danish language newspaper. Also, extensive youth work is done. Particular importance attaches to the system of private kindergartens and schools, with currently about 61 kindergartens and 53 schools of all types, where Danish is the language of instruction but where German is taught at mother tongue level. Grants and other forms of financial assistance for the institutions and work of the Danish minority are paid by the Land of Schleswig-Holstein, its districts and municipalities as well as by the Danish State.

(b) The Sorbian people

14. The Sorbian people are Slavs with their own history going back more than a thousand years, two written languages (High and Low Sorbian) and their own culture that always existed within the German State framework. Their present area of settlement is in Upper Lausitz in the north-east of the Free State of Saxony and in Lower Lausitz in the south-east of the Land of Brandenburg. The Sorbs living in Lower Lausitz are also called Wends.

15. Commitment to Sorbian national characteristics and to Sorbian culture is free. The preservation and development of Sorbian culture and Sorbian traditions are guaranteed. The number of people regarding themselves as Sorbs is not known because there are no up-to-date statistics. Estimates are in the region of about 60,000 Sorbs. Following the Free State of Saxony (Constitution of 27 May 1992; see the eleventh and twelfth CERD report), the Land of Brandenburg has also adopted protection of the Sorbs as part of its Land Constitution of 20 August 1992. It is stated therein:

> "Article 25 (rights of the Sorbs [Wends]):
>
> (1) The right of the Sorbian people to protection, to preserve and to foster their national identity and their traditional area of settlement shall be guaranteed. The Land, the municipalities and the municipal associations shall promote implementation of this right, particularly cultural independence and effective political co-determination by the Sorbian people.

(2) The Land shall aim to secure cultural autonomy for the Sorbs across land borders.

(3) The Sorbs shall have the right to preservation and promotion of the Sorbian language and culture in public life and to their being taught in schools and kindergartens.

(4) The Sorbian language shall be included in public inscriptions in the area where the Sorbs are settled. The Sorbian flag shall be blue, red and white in colour.

(5) The rights of the Sorbs shall be delineated by statute. This statute shall ensure that Sorbian representatives take part in matters affecting the Sorbs, particularly as regards legislation."

16. In the interim further statutory measures have also been adopted to take account of the special interests of the Sorbian people. In the Land of Brandenburg an Act to Delineate the Rights of the Sorbs (Wends) of 7 July 1994 has entered into force. This Act provides, inter alia, for a Council for Sorbian (Wendic) Affairs, elected by the Land Parliament. This Council advises the latter on matters affecting the Sorbs, particularly in respect of legislation.

17. The Brandenburg Election Act of 2 March 1994 exempts Sorbian parties, political associations or associations of lists from the 5 per cent blocking clause when they stand for the Land Parliament.

18. In the provisional Administrative Proceedings Act for the Free State of Saxony of 21 January 1993 it is stipulated that Sorbians have the right to use the Sorbian language in their dealings with the Land authorities. The Saxon Kindergarten Act of 10 September 1993 forms the statutory basis for teaching and fostering the Sorbian language and culture at Sorbian and bilingual kindergartens in the German-Sorbian area. The guarantees for the rights of citizens of Sorbian nationality, particularly as regards promoting the Sorbian language and culture, were also established in the county regulations for the Free State of Saxony of 19 July 1993 and in the municipal regulations of 21 April 1993.

19. Just as the Free State of Saxony did in its State Chancellery, the Land of Brandenburg has now also set up a special section for Sorbian Affairs that is subordinate to the Ministry of Science, Research and Cultural Affairs.

20. A Sorb has been a member of the European Parliament since the elections to the European Parliament on 13 June 1994. In the elections to the Land Parliament of Saxony on 11 September 1994 two Sorbs were elected to the Land Parliament as candidates for various parties. In the local elections in Saxony and in Brandenburg, held in 1994, as well as in by-elections, about 140 Sorbs stood as candidates for various parties or for Sorbian voters' associations and were elected to county and local parliaments.

21. The Sorbian language is taught, and there is teaching in Sorbian from kindergarten to grammar school in the framework of the State education system, and this also applies to the training of the teachers concerned. Payments for Sorbian cultural activities, the manifold press announcements in the Sorbian language and scientific work are secured by the Foundation for the Sorbian People from State funds earmarked for promotion purposes. The umbrella organization for Sorbian organizations is the Domowina Federation of the Lausitz Sorbs.

(c) The ethnic group of German Sinti and Romany

22. We have no exact figure for the total number of members of the ethnic group of German Sinti and Romany. Estimates lie between 50,000 and 70,000 people. German Sinti and Romany live in most of the Länder of the Federal Republic of Germany, and their population varies in numbers, but the largest populations are in North-Rhine/Westphalia, Rhineland-Palatinate, Hesse and Baden-Württemberg.

23. State promotion schemes set up by the Federation and the Länder also give financial support to Sinti and Romany associations and institutions for representation of the interests of their ethnic group, for cultural programmes, for measures to maintain their traditional identity and for integration tasks. The Office of the Central Council of German Sinti and Romany, which is this ethnic group's umbrella organization, is maintained from State funds. The Federation and the Land of Baden-Württemberg fund the Documentation and Cultural Centre of German Sinti and Romany. A total of about 20 staff work full-time for this ethnic group in both institutions. Some of the Länder promote regional measures and cultural programmes of the Land associations of Sinti and Romany. Partly because of the small number of German Sinti and Romany living in individual municipalities this ethnic group is only occasionally represented in local parliaments.

24. Germany is also aware of its historical responsibility towards Sinti and Romany, many of whom were victims of Nazi racial ideology. With State funding of the Documentation and Cultural Centre this ethnic group is also being given the chance to conduct research into their own history and impart information thereon to the public.

(d) The Friesian ethnic group

25. The Friesians in Germany live in the north of the Land of Schleswig-Holstein and in the north-west of the Land of Lower Saxony. The settlement area of the North Friesians lies on the west coast of Schleswig-Holstein (the District of Nordfriesland including the islands of Sylt, Föhr, Amrum and Heligoland). The number of people who because of their descent or self-perception feel themselves to be North Friesians is estimated at 50,000 to 60,000, which is about one third of the population of this region. Of those, some 10,000 speak North Friesian, and about 20,000 other persons understand this language. In East Friesland, in Lower Saxony, the East Friesian language is extinct. Only in Saterland, near the border with the Netherlands, do about 2,000 people still use Saterfriesian which belongs to the East Friesian-speaking group.

26. The right of the Friesian ethnic group in Schleswig-Holstein to protection and advancement is anchored in the Land Constitution. The majority of the North Friesians perceive themselves as a group within the German people which has its own language, history and culture. A minority of the North Friesians regard the Friesians as an independent people.

27. In the Schleswig-Holstein Landtag (Land Parliament) there is a "Committee for Questions of the Friesian Population in the Land of Schleswig-Holstein", chaired by the woman President (Speaker) of the Landtag. The Committee meets several times a year in order to discuss questions which affect the Friesian population group in the Land, with the goal of fostering and promoting the Friesian language and culture. The Committee is composed of representatives of the political factions in the Landtag, the Federal Members of Parliament for North Friesia, representatives of the Land Government and representatives of the Friesian Council, which is the Friesians' umbrella organization. North Friesians are also represented on local councils, at some of whose sittings Friesian is also spoken.

28. The Friesian language is also taught at State schools in the North Friesian region - and at some private schools of the Danish minority. As a rule, lessons are given as a voluntary option at the Class 3 and 4 level. The introduction of Friesian in some kindergartens was also begun some years ago.

29. There has been a North Friesian dictionary office at the University of Kiel since 1950, which - together with the subject of Friesian philology since 1978 - is the only university facility for the academic research of Friesian in the Federal Republic of Germany. The Professorship for Friesian established in 1988 at the present University of Educational Science at Flensburg serves mainly the training of Friesian teachers, as well as the elaboration of didactics for Friesian as a teaching subject. The "Seminar for Friesian Language and Literature and its Didactics" was established in 1991 in order to be able to enhance the promotion of the Friesian language in teacher training.

30. As a central academic facility in North Friesland, the Nordfriisk Instituut in Bredstedt is of great importance for the fostering of the Friesian language, culture and history. Its work is financed predominantly by subsidies from the Land of Schleswig-Holstein. The municipalities and the Danish minority also make financial contributions. Several associations, which are also supported by public funds, also devote themselves to the regional and local cultural work.

2. Protection of the Jewish community in Germany

31. The Jewish community in Germany does not see itself - such as within the meaning of the protection of minorities - as an independent ethnic group. It defines itself as a religious community in Germany, even if not all Jews belong to religious organizations. At the end of 1994 the Jewish community had about 47,000 members, and thus has almost doubled since 1990 due to immigration. The number of Jewish congregations has increased since then from 67 to 69.

32. The Jewish community in Germany is organized in local communities and Land associations. The communities' political representation is the Central Council of the Jews in Germany. Like the other religious communities in Germany, article 4, paragraphs 1 and 2, of the Basic Law applies to all Jewish organizations, that is, it guarantees comprehensive freedom of religion. There is freedom of faith and creed, as well as freedom to practise religion including freedom to form religious associations. In addition, the local communities, Land associations and the Central Council are recognized in all Länder as corporations under public law. This special status does not mean that the churches and religious associations are part of the State and thereby on a par with the other public corporations. This is a special status under constitutional law which guarantees certain privileges, e.g., the possibility to raise Church tax with the aid of State authorities, a possibility of which the Jewish community avails itself.

33. The relationships between the Land associations of the Jewish communities and the Länder are as a rule regulated by so-called State treaties. In these, among other things, are laid down the regular financial promotion of the Land associations. These State treaties, which in part have already been concluded in the new Länder, take account of the special situation of the Jewish community in Germany.

34. The German Federal Government promotes the Central Council of the Jews with annual grants which also benefit other Jewish institutions. In an agreement of 1957 the Federation and the Länder committed themselves jointly to finance the costs of the care and maintenance of derelict Jewish cemeteries.

35. The Jewish community's main problem was hitherto the demographic ageing of its members. With the admittance to Germany of Jews from the States of the Commonwealth of Independent States as quota refugees in the context of humanitarian aid, a renewal and rejuvenation of the Jewish community is to be expected. But for the local communities the integration of these in-migrants is also bound up with language problems and other difficulties.

36. There have been isolated attacks against Jewish community facilities in Germany in recent years which have aroused dismay and indignation among the German people. The overwhelming majority of them do not support these only isolated manifestations of anti-Semitic and neo-Nazi tendencies. The German Government takes the still existing anxieties of international Jewish organizations over these incidents very seriously. The dialogue begun in 1993 between the German Government and the World Jewish Congress, as well as other organizations, on xenophobia and anti-Semitism in Germany will be continued. The German Government is aware of Germany's historical responsibility towards the Jews.

37. In addition, the reader is referred to the comments on articles 4 and 6 of the Convention.

B. Article 3 of the Convention: condemnation of apartheid

38. There is no apartheid in the Federal Republic of Germany; it would also be excluded under the Constitution.

39. The Federal Government has time and again most rigorously condemned the apartheid policy carried out in South Africa until the first general elections in April 1994, and always spoke out for the complete abolishment of the apartheid system in South Africa. The Federal Government heartily welcomes the holding of the first democratic elections in South Africa, the establishment of a government of national unity, and the resultant end of the apartheid system.

C. Article 4 of the Convention: combating racist propaganda and organizations

40. Now, as before, it is a main concern of Germany policy to resolutely combat organizations with racist or racially discriminatory objectives and energetically put an end to the dissemination of propaganda material, as well as the use of symbols of right-wing extremist, particularly neo-Nazi organizations. Incitement of the public and rousing them to race hatred will consistently be prosecuted by the prosecution authorities.

41. Anti-Semitic and racist xenophobic propaganda is being carried out by right-wing extremist organizations by different ways and means. In the skinhead and neo-Nazi group scene, it is being done openly and directly with the backing of Nazi propaganda pictures. Right-wing extremist parties, such as the Deutsche Volksunion (DVU) and the Nationaldemokratische Partei Deutschlands (NPD), propagate their anti-Semitism in a more concealed way. This includes playing down (and sometimes also denying), the Nazi genocide committed against European Jews and other minorities, or printing slanted reports in their publications on the State of Israel and Jewish organizations.

42. In particular, the inflow of publications from abroad in which race hatred is instigated by neo-Nazi and other right-wing extremist propaganda presents a problem. In 1995 the Federal Government succeeded in its efforts to persuade Denmark to extradite the United States citizen Gary Lauck, who had exported such propaganda material from the United States of America to the Federal Republic of Germany. Lauck was extradited to Germany on 5 September 1995, and is at present in remand custody in Hamburg.

43. Inquiries in some Federal Länder have found that an increase in right-wing extremist propaganda was observed in recent years. This propaganda is characterized by a coarsening of its language and a disparaging of sections of the population both verbally and in writing. The propaganda is based quite openly on Nazi models. Besides that, it is increasingly using the symbols of unconstitutional organizations and parties. This is done mostly by the graffiti of unknown perpetrators or by anonymously dispatched writings. The propagandists are also using symbols which are similar to, or in some cases could be mistaken for, those of banned or unconstitutional organizations.

1. Criminal law provisions and their effectiveness

(a) Legal foundations

44. In its previous reports the Federal Government already referred to the penal provisions in sections 86, 86a, 130 and 131 of the Criminal Code. Section 86 criminalizes dissemination of the propaganda of unconstitutional organizations. Under section 86a there is criminal liability for using the symbols of certain parties and associations banned, with final and binding effect, by the Federal Constitutional Court or by the authorities responsible, particularly former Nazi organizations. The crime of agitation against sections of the population (sect. 130), which now includes incitement to racial hatred, previously covered in section 131, is one of the most important penal provisions in the German Criminal Code for the suppression of right-wing extremist and xenophobic propaganda (for the statutory amendments that entered into force in 1994 see para. 88 below relating to art. 6). Organizations founded on racist ideas or justifying or seeking to promote racial hatred or racial discrimination may also, in certain circumstances, be prosecuted under sections 129 and 129a of the Criminal Code. Section 129 of the Criminal Code criminalizes the formation or membership of an association whose aims or activities are directed towards the commission of crime. Section 129a provides for an even more severe penalty if the association is a terrorist association.

45. It is not uncommon for right-wing extremists to deny the fact of the murder of millions of Jews in Nazi concentration camps at organized lectures and in the writings they disseminate. This kind of utterance ("denying the Holocaust") had already been held by the courts to be criminal defamation of the Jews living in the Federal Republic of Germany and to be defamation of the memory of the dead (sects. 185 and 189 of the Criminal Code). Since an amendment to the law in 1985, the prosecuting authorities have been able to intervene ex officio in such cases. If there was an attack on the human dignity of those concerned, punishment was also possible for criminal agitation against sections of the population (sect. 130 of the Criminal Code).

46. Public discussion brought about by a decision of the Federal Court of Justice and legislative deliberations following this, led in 1994, to a supplementary amendment to section 130 of the Criminal Code. On 15 March 1994 the Federal Court of Justice quashed a judgement delivered by the Mannheim Regional Court in which the defendant had been sentenced to a term of one year's imprisonment, probationally suspended, for criminal agitation against sections of the population, incitement to racial hatred, malicious slander and defamation of the memory of the dead. The defendant had organized an event at which an American "expert" claimed that there had been no mass murders in the Nazi concentration camps; moreover, the defendant had interpreted and commented on this speech.

47. In the controversial discussion of this judgement the Federal Court of Justice affirmed past court decisions, according to which denial of Nazi genocide may also be punished as criminal agitation against sections of the population. The Federal Court of Justice quashed the conviction because the court of first instance had not made an adequate evaluation of the established facts in both factual and legal terms. During public discussion this

judgement was, however, partly misunderstood in the sense that the Federal Court of Justice was thought to have deviated from past court decisions and now to be of the opinion that denial of the mass murders in Nazi concentration camps was not, or only under particular circumstances, a crime.

48. To create legal clarity in this area a supplementary amendment was made to section 130 of the Criminal Code (criminal agitation against sections of the population). This amendment was inserted in the Crime Suppression Act, which entered into force on 1 December 1994, by all parliamentary groups in the Federal Parliament (the "Bundestag"). This provision states that whoever, publicly or at a meeting, approves, denies or plays down the genocide committed under the Nazi regime in a manner likely to cause a disturbance of the peace shall be punishable for criminal agitation against sections of the population and can be sentenced to imprisonment not exceeding five years. In respect of article 6 below, there is an outline of the parts of the Crime Suppression Act that are important for this report. Reference can be made to this outline for the details.

49. In this connection, reference must also be made to a ruling given by the Federal Constitutional Court on 13 April 1994. The Federal Constitutional Court held that the statement that there were no mass murders in the concentration camps of the Third Reich was a proven misrepresentation of fact (i.e. a proven false allegation of fact) and, as such, would not enjoy the protection of the basic right to freedom of expression; for this reason the Constitution did not forbid such statements from being evaluated as defamation of the Jews living in the Federal Republic of Germany pursuant to section 185 of the Criminal Code.

(b) Evaluation of criminal prosecution statistics

50. An evaluation of the criminal prosecution statistics in the "old" Länder indicates the following: in 1992 there were 85 people, including 23 juveniles, who were sentenced for a criminal offence under section 130 of the Criminal Code (criminal agitation against sections of the population - in the old version). Twenty-two people, including one juvenile, were sentenced for a criminal offence under section 131 of the Criminal Code (incitement to racial hatred). Since these penal provisions also cover acts other than those motivated by racial hatred (e.g. glorification of violence committed against others for sadistic reasons) only some of the convictions mentioned here fall within the scope of the Convention's application.

51. Sections 86 and 86a of the Criminal Code are not listed separately by official statistics on sentenced persons so that no data can be given here. According to information received from the Land departments of justice, in 1994, 8,738 investigations were initiated throughout the Federation on suspicion of criminal offences committed pursuant to these penal provisions.

52. At present, no figures can be given for convictions pursuant to sections 129 and 129a of the Criminal Code because the criminal prosecution statistics do not distinguish here between left- and right-wing extremist backgrounds.

2. Measures against organizations with racist aims

(a) Bans on associations and parties

53. According to the 1994 report of the Office for the Protection of the Constitution there were 82 right-wing extremist organizations and other associations of persons in the Federal Republic of Germany at the end of 1994. They had about 56,600 members (in 1993: 64,500).

54. The banning of associations that are not political parties is dealt with in article 9, paragraph 2, of the Basic Law and in the Associations Act. The provision states that associations whose aims or activities contravene criminal law or are directed against the constitutional order or the notion of international understanding shall be banned.

55. In 1992 the Federal Ministry of the Interior banned the Deutsche Alternative (German Alternative), the Nationalistische Front (Nationalist Front) and the Nationale Offensive (National Offensive), and on 10 November 1994 the right-wing extremist Wiking-Jugend (Viking Youth) was banned, as was the Freiheitliche Deutsche Arbeiterpartei (Free German Workers' Party) on 24 February 1995. So the number of associations with right-wing extremist objectives banned by the Federal Ministry of the Interior in the Federal Republic of Germany has increased to 10 since entry into force of the Associations Act on 12 September 1964.

56. Since 1992 six regional associations with right-wing extremist objectives and whose activities were confined to one Land have been banned and dissolved.

57. It is the Federal Constitutional Court alone that decides on the unconstitutionality of political parties. Applications can be made by the Bundestag (Federal Parliament), the Bundesrat (Federal Council) or the Federal Government; the government of a Land is entitled to make an application when a party's organization is restricted to the territory of one Land.

(b) Other measures

58. Parties and organizations that have not been banned by the bodies competent to do so under the Basic Law are not allowed to have their existence or activities restricted by administrative measures. Consequently, parties of the extreme right and of the extreme left also enjoy an unrestricted right, and have the actual chance, of standing for election. They are entitled to basic equal treatment pursuant to section 5 of the Political Parties Act when a public authority is making facilities available to parties or granting them other public benefits. In certain circumstances they are entitled to State funds (sects. 18 and 20, Political Parties Act). Supporters, members and functionaries are not prevented from promoting the aims of their party using generally permissible methods, from taking part in elections and from accepting a parliamentary seat if elected.

59. Parties certainly also have to keep within the limits set by the legal system when exercising their rights. When the statutory conditions apply, assemblies, for instance, may be banned. Pursuant to section 5, subsection 1,

of the Assemblies Act of 15 November 1978 the competent authority may ban a meeting if in the light of circumstances apparent at the time the directive is issued a direct threat will be posed to public safety or order when the meeting is held. It was on this basis that, for example, the Halle Administrative Court ruled, on 21 January 1994, that the banning of a meeting is lawful at which it is to be feared that the Nazi dictatorship and its atrocities will be played down and leading figures during the Nazi dictatorship glorified (case file 3 B 3/94). The Mannheim Higher Administrative Court ruled on 22 January 1994 that an assembly may be banned when there is a specific risk of there being utterances at the meeting constituting criminal agitation against sections of the population (here the Nationaldemokratische Partei Deutschlands - National Democratic Party (case file 1 S 180/94).

60. The executive is, moreover, entitled and under a duty to safeguard and defend the free democratic basic order, and it is even obliged to keep party objectives that are incompatible with the Basic Law under observation. The executive is required to assess the dangers connected with such objectives and to report to Parliament and the public on its findings and on how it evaluates a more or less distinct incompatibility of a political party's goals and endeavours with the Basic Law. This was already made clear by the Federal Constitutional Court in its judgement of 29 October 1975 (BVerfGE 40, 287, 293). In this judgement an application made by the Nationaldemokratische Partei Deutschlands - NPD (National Democratic Party) against the Federal Government was dismissed. In this application the NPD has objected to its aims being described as unconstitutional. Intelligence methods may also be used in the observation of anti-constitutional groups and activities pursuant to the relevant federal and Länder statutes. If the party under observation considers that this is unlawful, it can have recourse to the administrative courts for legal protection.

61. The Government of the Federal Republic of Germany is very carefully monitoring the development of right-wing extremism. It decides from case to case on any measures that may have to be taken in the light of all the circumstances. Sometimes there is no proof of prerequisites for issuing a ban where those concerned have verbally professed loyalty to the Constitution and are making a careful effort to avoid utterances that might be interpreted as racist. In other cases a ban might turn out to be inappropriate. So an organization can only be banned after all aspects have been weighed up. The German Government is giving priority to the intellectual and political confrontation with extremism and is setting its sights on public enlightenment.

(c) Forfeiture of basic rights of individual persons

62. According to article 18 of the Basic Law, the Federal Constitutional Court can, at the application of the German Federal Parliament, the Federal Government or a Land government, order the forfeiture of certain basic rights if these are abused in an attempt to undermine the free democratic basic order. That applies here in particular to freedom of expression, freedom of the press, freedom of assembly, and freedom to form associations. In December 1992 the Federal Government applied to the Federal Constitutional Court for the establishment of the forfeiture of certain basic rights pursuant

to article 18 of the Basic Law involving two persons from the right-wing extremist scene. The Federal Government took this unusual step in order to make it clear that it was no longer prepared to accept the continuing right-wing extremist statements with which these two persons called in public for the fight against the free democratic basic order.

3. Combating racism and racial discrimination in foreign policy

63. Combating racism and racial discrimination is also a primary concern of foreign policy, for which the Federal Republic of Germany emphatically speaks out, above all within the framework of the European Union, the Council of Europe, the Organization for Security and Cooperation in Europe and the United Nations.

64. Under Franco-German pressure, the European Council of Ministers meeting in Corfu in June 1994 adopted an initiative against racism and xenophobia. Within the framework of this initiative, the EU Council of Justice and Interior Ministers agreed in March 1995 on the following measures to combat racism and xenophobia:

(a) Uniform statistical registration of xenophobic acts of violence based on standardized definitions and reporting procedures;

(b) Designation of contact offices for the exchange of information;

(c) Supplementing existing and future agreements on cross-border cooperation by stipulations which contribute to combating racist acts of violence;

(d) Recommendations on the curricula of initial and advanced police training, the exchange of information at the operational level, and research projects on the causes of racism.

65. Moreover, the European Council of Ministers in Corfu set up an independent Advisory Commission on racism and xenophobia, whose task was to make recommendations on cooperation between the Governments and the various social groups to promote tolerance and understanding towards foreigners. In Cannes in June 1995 the Advisory Commission presented to the European Council a report containing more than 100 recommendations which foresee concrete measures for the sectors of information/communication/media, upbringing/education and police/justice. On the basis of these conclusions, the Spanish Presidency of the European Union in the second half-year of 1995 tabled the draft of a Joint Measure to combat racism and xenophobia according to which the member States of the European Union would commit themselves to effective judicial cooperation either to make certain racist or xenophobic behaviour punishable or, in prosecuting such offences, to dissociate themselves from the principle of dual criminality. At its meeting in Madrid on 15 and 16 December 1995, the European Council demanded "that the Joint Measure to combat racism and xenophobia be adopted in order to achieve a convergence of the legal provisions of the member States, and to strengthen the possibilities of mutual judicial assistance between the member States in

this area". It is now the task of the Italian Presidency of the European Union to finalize the text of the Joint Measure in agreement with all EU member States.

66. Furthermore, at the request of the European Council meeting in Cannes, the Advisory Commission is examining, in close cooperation with the Council of Europe, whether the setting up of a European Observation Office on racist and xenophobic phenomena is feasible. A final report is planned for the European Council during the Italian Presidency.

67. At their Summit meeting in Vienna on 8 and 9 October 1993, the heads of State and Government of the member States of the Council of Europe, to which the Federal Republic of Germany belongs, adopted a plan of action to combat racism, xenophobia, anti-Semitism and intolerance. The Federal Republic of Germany is taking an active part in the implementation of the plan of action, which encompasses not only a broadly based European youth campaign to mobilize the public for a tolerant society, but also the creation of a committee of government experts (European Commission against Racism and Intolerance - ECRI). This commission reviews the laws, measures and policies of the member States to combat racism, xenophobia, anti-Semitism and intolerance, proposes measures, and formulates recommendations to the member States. The body began work in 1994 and is at present occupied with setting up working groups to examine the conditions in fact and in law in the individual member States of the Council of Europe, including in Germany.

68. In the OSCE area, the Federal Republic of Germany has been active in various ways in combating race hatred, chauvinism and aggressive nationalism. The relevant rules of the Copenhagen Document, as well as the study papers on racism and racial discrimination delivered at the OSCE meeting of experts on national minorities (Geneva, 1-19 July 1991), are, among other things, attributable to German initiatives. Within the framework of the OSCE/CSCE, the Federal Government has time and again called attention to the problem of aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism.

69. The initiatives of the European Union, which were taken up with the use of the new institutional structures introduced by the EU Treaty, and the activities of the OSCE and the Council of Europe complement each other.

70. The Federal Republic of Germany also supports the efforts of the United Nations to counter racism, xenophobia and related forms of intolerance worldwide. In recent times the Government has spoken out for not only the declaration of the Third Decade to Combat Racism and Racial Discrimination, but also for the appointment of a Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

71. The Special Rapporteur visited Germany from 18 to 28 September 1995, at the invitation of the Federal Government. Among others, he met representatives of the Federal and Land governments, municipalities and non-governmental organizations. He will present his report on Germany to the United Nations Commission on Human Rights at its meeting in the spring of 1996.

D. Article 5 of the Convention: comprehensive protection of human rights

1. Introduction

(a) The position of constitutional law in Germany

72. According to the Basic Law for the Federal Republic of Germany, everybody, regardless of nationality, has the right to the free development of his personality in so far as he does not violate the rights of others or offend against the constitutional order or morality (art. 2, para. 1). No one may be disadvantaged or favoured because of his sex, his parentage, his race, his language, his homeland and origin, his faith, or his religion or political opinions (art. 3, para. 3, first sentence). Freedom of faith and creed, freedom of opinion and the press, freedom of art and scholarship, privacy of correspondence, posts and telecommunications, and the inviolability of the home are laid down as human rights. All Germans have the right to assemble peacefully and form associations (arts. 8 and 9), the right to move freely throughout the federal territory (art. 11), and the right freely to choose their occupation or profession (art. 12). Property and the right of inheritance shall be guaranteed (art. 14). The Constitution and the laws of the land, as well as their practical implementation, guarantee that everybody - regardless of nationality - can exercise all the rights named in article 5 of the Convention.

(b) Support for the prosecution of war crimes in the former Yugoslavia and in Rwanda

73. In the view of the Federal Government, an effective prosecution of serious violations of international law on crimes against humanity presents an important contribution to worldwide protection of human rights. The Government therefore took an active part from the start in the efforts of the United Nations Security Council to set up an international tribunal to prosecute persons responsible for grave violations of international law on crimes against humanity in former Yugoslavia. In order to comply with resolution 827 (1993) of the Security Council, and the statute of the International Criminal Tribunal for the Former Yugoslavia which was adopted at the same time, the Federal Government in 1994 tabled a bill covering cooperation with the Tribunal, under which the German law on judicial assistance was to be harmonized with the rules of the statute. The Act took effect on 14 April 1995; a short while later a suspected war criminal who had been arrested in Germany was handed over to The Hague - the only accused person who has so far had to answer to the Tribunal.

74. In the light of the tragic events in Rwanda, the Federal Government has also called for the Security Council to create a special ad hoc criminal tribunal for Rwanda. After the selection in May 1995 of the judges of this tribunal by the General Assembly, the tribunal was constituted on 27 June 1995 in The Hague. As a non-permanent member of the Security Council at present, Germany will support, inter alia, the tribunal assuming its activities as soon as possible. In this context, the Federal Government applauds the intention announced by the prosecutor of the tribunal, Richard Goldstone, to file the first charges this year.

2. Foreign residents in Germany

75. The number of foreigners living in Germany has grown since the Federal Government's last report. As at 31 December 1994, the figure was 6,990,510. Thus, the share of foreigners in the total population has also increased, namely from 7.8 per cent (as at 31 August 1992) to 8.6 per cent (as at December 1994). The foreign population is particularly large in individual regions; in the conurbations the foreign share is in some parts more than 20 per cent (e.g. in Frankfurt am Main it is 29.2 per cent), in Stuttgart 24 per cent and in Munich 22.9 per cent. The same applies to the distribution of the foreign population according to Federal Länder. Thus, in 1993 almost three quarters of all foreigners in Germany lived in the four large Länder of Baden-Württemberg, Bavaria, Hesse and North Rhine-Westphalia. Foreigners were 13.2 per cent of the population in Hesse, 12.3 per cent in Baden-Württemberg, 10.6 per cent in North Rhine-Westphalia and 8.9 per cent in Bavaria. The number of foreigners in the new federal Länder is very small. Except for Brandenburg (2.4 per cent), they are 1 per cent to 1.5 per cent, and even in the metropolitan cores of Leipzig, Dresden, Halle and Rostock they account on average for only 1.8 per cent to 2.6 per cent of the total population.

76. The largest groups of foreigners in Germany consist of nationals of the following countries:

Turkey	1,965,577
former Yugoslavia	1,298,960
Italy	571,900
Greece	355,583
Poland	263,381
Austria	185,140
former Soviet Union	140,146
Spain	132,355
Romania	125,861
(EU States total:	1,560,998)

3. Asylum-seekers and refugees

77. The number of refugees in the Federal Republic of Germany rose in the last decade from 610,000 (1985) to about 2 million in 1993, and in 1994 declined again to about 1.75 million. They included about 267,000 people entitled to political asylum and members of their families (15.1 per cent of all refugees), an estimated 67,200 quota refugees (3.8 per cent), 20,600 homeless foreigners (1.2 per cent), 650,000 de facto refugees (36.7 per cent), 415,000 asylum-seekers (23.5 per cent) and 350,000 civil war refugees (19.8 per cent).

78. The number of people seeking asylum in Germany grew from year to year until the change in the law on asylum, and in 1992 reached a high water mark of about 438,000. At the end of 1992 about 100,000 people entitled to asylum and 610,000 asylum-seekers whose proceedings were not yet legally valid or effective were present in Germany. Following the coming into force in mid-1993 of the new right to asylum, the number of applicants for asylum in the second half of that year declined to 98,500. A total of about

323,000 foreigners applied for asylum in Germany in 1993. The downward trend continued in 1994 and 1995 (about 127,210 and 127,937 asylum applicants respectively). The annexes contain further statistical information on this subject.

Provisions of the 1993 amendment to the law on asylum

79. As a result of the amendment to the law on asylum (Act of 28 June 1993), a new article 16 (a) was inserted into the Basic Law in order, on the one hand, to continue to guarantee necessary protection to politically persecuted persons and, on the other hand, to ensure that the widespread abuse of the right to asylum for purposes of illegal immigration would be stopped. The amendment also guarantees that Germany can participate with equal rights and duties under the rules on competence for the implementation of asylum proceedings contained in the Protocol to the Schengen Agreement and in the Dublin Agreement on asylum. Article 16 (a) of the Basic Law reads as follows:

"(1) Anybody persecuted on political grounds has the right of asylum.

"(2) Paragraph (1) may not be invoked by anybody who enters the country from a member State of the European Communities or another third country where the application of the Convention relating to the Status of Refugees and the Convention for the Protection of Human Rights and Fundamental Freedoms is assured. Countries outside the European Communities which fulfil the conditions of the first sentence of this paragraph shall be specified by legislation requiring the consent of the Bundesrat. In cases covered by the first sentence measures terminating a person's sojourn may be carried out irrespective of any remedy sought by that person.

"(3) Legislation requiring the consent of the Bundesrat may be introduced to specify countries where the legal situation, the application of the law and the general political circumstances justify the assumption that neither political persecution nor inhumane or degrading punishment or treatment takes place there. It shall be presumed that a foreigner from such a country is not subject to persecution on political grounds so long as the person concerned does not present facts supporting the supposition that, contrary to that presumption, he or she is subject to political persecution.

"(4) The implementation of measures terminating a person's sojourn shall, in the cases referred to in paragraph (3) and in other cases that are manifestly ill-founded or considered to be manifestly ill-founded, be suspended by the court only where serious doubt exists as to the legality of the measure; the scope of the investigation may be restricted and objections submitted after the prescribed time-limit may be disregarded. Details shall be the subject of a law.

"(5) Paragraphs (1) to (4) do not conflict with international agreements of member States of the European Communities among themselves and with third countries which, with due regard for the obligations arising from the Convention relating to the Status of Refugees and the

Convention for the Protection of Human Rights and Fundamental Freedoms, whose application must be assured in the Contracting States, establish jurisdiction for the consideration of applications for asylum including the mutual recognition of decisions on asylum."

80. The Basic Law thus continues to guarantee protection from political persecution by means of an individual basic right. The scope of protection is now concretized in the Constitution.

81. The legal amendment contains no discrimination against asylum-seekers from different countries of origin. Pursuant to article 3 of the Geneva Convention relating to the Status of Refugees, the Contracting States are prohibited from treating refugees differently for reasons of race, religion or country of origin. That means arbitrary considerations must play no role in the granting of protection to refugees. Exclusively objective criteria are decisive for judging the question of "safe countries of origin", namely that on the basis of the legal situation, the application of law, and the general political conditions in these States it is guaranteed that neither political persecution nor inhuman or degrading punishment or treatment takes place there. The premise for the third country rule is that in these States the application of the Convention relating to the Status of Refugees and the European Convention for the Protection of Human Rights and Fundamental Freedoms is assured. The lists of the safe third States and the safe countries of origin will be determined by an Act which requires the approval of the Bundesrat (Upper House). In the event of a change in the political situation, the lists of the safe third countries and the safe countries of origin will be adjusted accordingly. A current example of that is the deletion of Gambia from the list of safe countries of origin following a military putsch there. Its exclusion was covered initially by a decree of 6 October 1994 and subsequently by an Act of 31 March 1995.

4. Integration policy of the Federal Government

82. Integration is a focal point of the Federal Government's policy on foreigners. The integration policy of the Federal Government is an expression of responsibility for the foreign workers who were recruited from 1955 until the recruitment stop of 1973, and their family members who mainly joined them in Germany after 1973. The number of the latter is about 4.5 million out of a total of 6.9 million foreigners, of whom 1.92 million are people from Turkey.

83. The political goal of integration is to enable the foreign residents to enjoy a life of equality in Germany by balancing disadvantages, increasing equality of opportunity - particularly in access to employment - and strengthening their feeling of their own value. At the same time, there are to be no demands that they fit unnoticeably into the German way of life. Integration makes demands on both Germans and foreigners. Its success also depends on the readiness of foreign families to acknowledge the basic values of the Constitution of the Federal Republic of Germany (separation of Church and State, the status of women, religious tolerance), and observe laws (such as fulfilment of the obligation to attend school), as well as acquiring a knowledge of the German language in their own interest. The foreign families have a right to tolerance and understanding on the part of the German population, and to maintain their cultural identity.

84. This also includes the freedom to practise their religions and, in particular, the establishment of areas for religious purposes, which in Germany are not limited in any way. Thus, according to Church estimates, there are for example 1,200 Islamic prayer centres in Germany, of which about 30 are mosques that are highly visible in townscapes.

85. As part of the efforts of German policy on foreigners - which is above all aligned towards integration - the change of status from foreigner to German national, with all constitutional civil rights, was facilitated in 1993 by, among other things, the creation of legal rights to naturalization. In addition, the Federal Government plans a comprehensive reform of the law of nationality and citizenship.

5. Participation in elections

86. Foreigners resident in Germany who are citizens of the European Union can now participate here in elections to the European Parliament and in local government polls. The introduction of this electoral right is foreseen in article 8b of the Treaty on the European Community, and links with the idea of the status of a European Union citizenship. EU foreigners domiciled in a member State were able to avail themselves of the right to vote for the European Parliament in the elections to the fourth European Parliament in June 1994. The provisions of a corresponding guideline for the right to vote for local governments were adopted under the German Presidency of the EU before the deadline of 31 December 1994. The guideline had to be transposed into national law within one year, that is, before 1 January 1996. In Germany, all federal Länder except for Bremen, which will soon follow, have met this deadline. With the Act of 21 December 1992 to amend the Basic Law (BGBl [Federal Law Gazette] Part I p. 2086), the constitutional prerequisites for national law were created by article 28, paragraph 1, third sentence of the Basic Law.

6. Consideration of the interests of foreigners in legal decisions

87. Every German and every foreigner who feels his or her rights have been violated can have recourse to the German courts. In the case of a violation of rights by public authority, this right of the individual is guaranteed by article 19, paragraph 4, of the Basic Law. The German courts comprehensively fulfil their task of providing efficient protection of the rights of the individual. The following two decisions are exemplary:

(a) The Federal Administrative Court decided in 1993 on the petition of a girl with Turkish nationality born in Germany in 1977 who attended a municipal co-educational grammar school and professed the Islamic religion. She had unsuccessfully requested to be excused from joint sports lessons for boys and girls because of her religion's rules on clothing. The Federal Administrative Court decided in favour of the petitioner. The court ruled that under article 4, paragraphs 1 and 2, of the Basic Law she had a right to be excused from sports lessons so long as these were not offered separately to boys and girls. The co-educational sports lessons offered in the context of the general obligation to attend school led to a conflict of conscience for

the 12-year-old schoolgirl with respect to the Koran's rules on clothing (Decision of the Federal Administrative Court of 25 August 1993, Neue Zeitschrift für Verwaltungsrecht - NVwZ [New Periodical for Administrative Law] 1994, p. 578);

(b) The Federal Constitutional Court ruled on 9 February 1994 on the complaint of unconstitutionality of a Turkish citizen who lived in a rented flat which was connected to a common television antenna via which he was able to receive five German television programmes. He requested permission from his landlady to install a satellite receiver so that he could also receive Turkish television programmes. He then petitioned his local court and the regional court without success. The Federal Constitutional Court rescinded the decision of the regional court on the grounds that it violated the complainant's basic right to freedom of information. A property owner may not forbid a foreign tenant from installing a parabolic antenna. The tenant's information interests had priority over the landlord's property interests, which were protected by article 14, paragraph 1, of the Basic Law, in maintaining the unimpaired appearance of the apartment block. If the civil courts - the typical case of a tenant requesting his landlord's permission to erect a parabolic antenna denied his right to do so even when he provided a cable connection, this was not to be objected to. But the special information interests of foreign tenants permanently resident in Germany were not covered by this consideration, which was based on the normal case. Foreigners living in Germany are as a rule interested in receiving the programmes of their homelands in order to keep abreast of current events there, and be able to maintain their cultural and linguistic links. In view of the small number of foreign programmes which are fed into the German cable networks, this is mainly only possible by means of a satellite receiver.

7. Practice of compensation for racial discrimination

88. In its last report, the German Government explained that German civil law did not have special provisions for compensation in the case of racial discrimination. But according to the general provisions of the civil law, aggressive, obvious forms of discrimination could justify an injured party's right to compensation (see also para. 95).

8. Measures under insurance law

89. In its last report, the Federal Government also illustrated concealed forms of discrimination in private business by the example of foreigners buying third party insurance policies for their cars.

90. Calculations of premiums based on nationality are in the meantime expressly prohibited. By means of the Third Act on the Transposition of Directives of the Council of the European Communities on Insurance Law (3rd Transposition Act/EEC on the Insurance Supervision Act) of 21 July 1994 (Federal Law Gazette Part I, p. 1630), the following regulation has been inserted into the Insurance Supervision Act (Versicherungsaufsichtsgesetz):

"Section 81 e

Within the meaning of section 81 subsection 2, tariff determinations and premium calculations which are based on the nationality of the policyholder or the insured or on their membership of an ethnic group are also to be seen as a grievance."

91. This legal regulation was created because according to general opinion, nationality and membership of an ethnic group cannot in itself be a risk criterion. The new regulation makes clear that the Federal Supervisory Office for Insurance Companies can within its supervisory powers intervene against such discrimination. The new regulation applies to all types of insurance.

9. Measures under the Licensing Act

92. The Licensing Act of 5 May 1970 foresees that a publican requires a licence. It will not be granted if the applicant does not have the required reliability.

93. A licence can be withdrawn if unreliability manifests itself later. In the administrative rules of the Licensing Act, which were put into effect in the federal Länder following a model bill from 1984, the following is determined:

"The unreliability of a publican can also arise from him so abusing his authority according to the rules of the freedom of contract to ban guests from visiting his public house that he arbitrarily excludes persons from visiting his premises merely because of the colour of their skin, race, origin or nationality. An improper exclusion is not to be assumed, however, if because of certain incidents the publican must fear that otherwise his business will be disturbed or his employees or guests will be interfered with."

10. Measures against discrimination in other social sectors

94. Complaints about discrimination in the civil law sector involve, besides refusal of entry to pubs and discos, mostly housing and working life. The German legal position and German policy is presented in the statement which the Federal Government forwarded recently to the European Commission against Racism and Intolerance. The reader is referred to this statement, which is contained in the annexes.

11. Further legislative considerations

95. At the suggestion of the Committee, the Federal Government has again considered whether a comprehensive anti-discrimination law is suitable for improving the combating of racism and xenophobia. Corresponding political discussions, which have not yet been completed, are taking place within the Federation and in some Länder.

96. The German Government is making sustained efforts to prevent discrimination by legal measures. This task is being fulfilled to a great extent by the directly applicable and enforceable regulations in the

Constitution covering equal treatment, by detailed penal law provisions, administrative law regulations, the general provisions of civil law, and the comprehensive legal redress available in Germany. In the combating of discrimination by private persons in the civil law sector, questions sometimes arise on the relationship of constitutionally guaranteed private autonomy to freedom of contract. Special problems also arise in proving whether a case of unequal treatment took place on racist or similar grounds.

E. Article 6 of the Convention: protection against racial discrimination

1. Xenophobic activities: preliminary remarks

97. In its eleventh and twelfth periodic report the German Government reported to the Committee on the extent of xenophobic activities in Germany at that time, as well as on the measures taken by the State to combat these activities. At its fiftieth session the United Nations Commission on Human Rights in the procedure under resolution 1503 (XLVIII) of the Economic and Social Council tackled the incidents in Germany. It has now discontinued the proceedings after a written and oral dialogue with the German Government. The comprehensive measures which were taken against racism and xenophobia in Germany at all levels of society have been successful. The number of xenophobic criminal offences has decreased considerably since June 1993 (see para. 108). However, the German Government continues to regard xenophobia, racism and anti-Semitism as a serious challenge.

98. The causes of xenophobic incidents in Germany were manifold, something which calls for a wide variety of measures.

99. Combating xenophobia and racism in Germany is a task for society as a whole. There is no question but that the State bears a special responsibility. In this context the Federal Government, led by Federal Chancellor Helmut Kohl, commissioned the head of the Federal Chancellery on 2 December 1992 to summarize all measures and plans of the Federal Government on preventing and combating violence in a committee of State Secretaries. Working groups are formed by the individually competent Federal Ministries which have concerned themselves with the problems of violence committed by young people, with the integration of foreigners, with questions to do with the police and with questions of criminal law, of the law of criminal procedure, as well as with the justice system. The results of the work of these working groups, the "Offensive against Violence and Xenophobia", are described in the annexed material.

100. The Federal Government itself has only restricted opportunities in the fight against extremism and violence because major areas such as education, culture, the police and the justice system lie within the area of competence and responsibility of the Länder. The Länder have provided the German Government with contributions to the continuation of the first intermediary report. They are described in general terms in the second intermediary report of the Offensive against Violence and Xenophobia. The full wording of the contributions of the Länder is contained in the publication Measures taken by the Federal Länder against Violence and Xenophobia (Maßnahmen der Bundesländer gegen Gewalt und Fremdenfeindlichkeit), published by the Federal Chancellery. It is also enclosed.

101. The increasing willingness present in society to commit violent acts - particularly on the part of young people - requires a concerted effort on the part of all forces in society. Schools and universities, religious associations, clubs and, in particular, families are called upon to fight against violence and extremism. This is why Federal Chancellor Helmut Kohl invited representatives of the areas concerned, as well as media representatives, scientists and experts, to discuss ways of preventing violence. To date, open and quite controversial discussions have taken place in three rounds on the causes of the phenomenon "violence", on ways of preventing violent acts and the necessity of punishing them. Concrete agreements were reached for cooperation between the institutions and organizations which were represented. The discussions are being continued.

2. The extent of the incidents

(a) Developments between 1991 and 1995

102. Since mid-1991, Germany has witnessed a considerable quantitative and qualitative increase in xenophobic criminal offences, reaching a climax in October 1991 with the events which took place in Hoyerswerda, where right-wing extremists violently attacked a residence for foreigners mainly inhabited by Vietnamese and Mozambican guest workers, and the violent riots in front of the central reception centre for asylum-seekers in Rostock-Lichtenhagen. In the first half of 1992, the level of xenophobic activity initially decreased, only once again to increase at the end of August/beginning of September 1992. The cause of this was obviously the violent riots in front of the central reception centre for asylum-seekers in Rostock-Lichtenhagen. A provisional, tragic climax was the two arson attacks carried out in Mölln (Schleswig-Holstein) on 23 November 1992. The offenders set fire to two houses where Turkish nationals lived. Three female inhabitants died.

103. After the arson attack in Mölln at the end of November 1992 the number of xenophobic attacks clearly went down as a whole - presumably not least because of the widespread abhorrence of such criminal offences within society. The xenophobic criminal offence with the most serious consequences occurred on 29 May 1993. In an arson attack on a house in the centre of Solingen (North Rhine-Westphalia) inhabited by a Turkish family, five family members died. This offence led to a new wave of xenophobic criminal offences in June 1993, the frequency of which almost tripled in comparison with the previous month. In July 1993 the number fell sharply once again, and there is now a downward trend once more.

(b) Central data storage of information on xenophobic criminal offences

104. Since 1991, the police have been preparing an overview of "Xenophobic Criminal Offences" on the basis of a standard definition. Xenophobic offences are processed by the police authorities in the Länder - as a rule by the Land Criminal Offices as central regional agencies - and by the Federal Criminal Office as the central agency of the Federation, and for statistical purposes, as well as in support of preventive or repressive measures. The changes in the statistics are shown in detail in the enclosed overview of criminal and violent acts, whose numbers have drastically reduced since June 1993. There are no corresponding statistics for the years prior to 1991.

105. Additionally, the police forces and the Office for the Protection of the Constitution gather statistical data on anti-Semitic offences.

106. The Federal Criminal Office classifies offences as xenophobic if they are directed against persons in respect of whom the offenders dispute the right to remain or reside in the area or in Germany on the basis of their actual or supposed nationality or ethnicity, race or skin colour, religion or philosophy, origin, or because of their outward appearance. The same applies if the offences are directed against other persons, institutions, objects or property in respect of which the offenders act out of xenophobic motives.

107. The following picture emerges for 1993 and 1994, in individual areas of crime:

	1993	1994
Completed homicide	2 (6 victims)	0
Attempted homicide	18	8
Bodily harm	727	494
Explosives offences	3	1
Arson	284	80
Other xenophobic offences	5 687	2 908

108. In 1993, a total of 6 people died, whilst 906 were injured. Of the injured and dead, 294 were asylum-seekers; 189 victims had Turkish nationality. In 1994, 547 persons were injured, including 134 asylum-seekers.

109. The Federal and Länder police authorities agree that there is by no means a uniform pattern to these crimes, but rather a wide variety of causes and motives. Only some of the offenders are right-wing extremists who reject the free, democratic basic order as a whole or who, in exaggerated, racially oriented nationalism, wish to isolate and drive out members of other peoples, races or religions. In many cases, the xenophobic offences are a militant expression of an abhorrence of asylum-seekers and immigrants, as well as an undefined fear of alienation. One can see isolated cases of foreigners (children of guest workers of the first and second generations) committing xenophobically motivated offences, in particular against asylum-seekers and their dwelling-places. Members of militant foreigners' organizations commit offences against each other. Attacks are also directed at German repatriates who lived in the States of the former eastern bloc and have gained admission to Germany.

110. Most xenophobically motivated offences are committed spontaneously and by local offenders. As yet, there is no evidence that these offences are organized centrally by right-wing extremist organizations. There are, however, indications of increasing attempts to establish a network of skinheads and of skinheads and other right-wing extremist groups. These attempts are one of the main focuses of the observation by the security authorities, in particular of the Office for the Protection of the Constitution. It can also be seen that right-wing extremists from Germany are continuing to maintain links with like-minded foreigners.

111. A series of offences have been committed out of anti-Semitic motives. The arson attack on the former concentration camp at Sachsenhausen near Oranienburg on 26 September 1992, the desecration of the monument at the former concentration camp at Buchenwald on 23 July 1994 and the arson attack on the synagogue of the Jewish Community in Lübeck on 25 March 1994 unleashed both indignation and consternation, not only in Germany, but also abroad. These attacks make it clear how important it is to continue to combat right-wing extremism and anti-Semitism.

112. The Federal Government has very recently submitted statements to the United Nations with regard to several attacks on foreigners which were actually or allegedly racially motivated (see annexes).

3. The causes

113. With regard to the causes of xenophobic violence in Germany the final report of the project analysing xenophobic criminal and violent offenders, which was supported by the Federal Government, has been available since December 1994. The study, "Analysis of xenophobic criminal offenders", prepared by a group of researchers from Trier University, concentrates on analysing police files relating to xenophobic suspects during the period 1 May 1992 to 31 December 1993 and is a continuation of the analysis of xenophobic criminal and violent offenders for 1991 ("Xenophobic Violence, Attitudes, Offenders, Escalation of the Conflict").

114. The research project was carried out with the participation of all 16 Federal Länder and is thus the first systematic, complete analysis of the xenophobic suspects identified in the period concerned (5,232 in total). The aims of the study, which is attached, were:

(a) To gain knowledge of the socio-demographic structures and group memberships of groups of offenders who are willing to commit violent, xenophobic acts;

(b) To identify changes in the breakdown and structure of the groups of offenders between 1991 and 1993;

(c) To determine the effect of the escalation of recruitment and mobilization.

115. The study has provided reliable basic data concerning these problem areas and hence a main precondition for effective political countermeasures. Some of the conclusions drawn from the study are the following:

(a) Statistical knowledge. The overwhelming majority of xenophobic criminal and violent offenders are young men. Over 60 per cent of suspects were 20 years of age or younger; 20.8 per cent of suspects were older than 25. The age structure of the suspects largely corresponds to the typical distribution of non-political youth crime and youth gang violence, which peaks with the age group 15 to 24;

(b) Groups of offenders. The proportion of older suspects has multiplied in comparison to the previous study. The older suspects were mostly unemployed, some with considerable criminal records, and "Old Nazis" with links to right-wing extremist parties and politically motivated offences. The overwhelming majority of suspects had a low to medium level of education. The proportion of the unemployed among xenophobic criminal offenders is much higher than the unemployment rate among young people as a whole. This is due primarily to the higher proportion of older groups of offenders between 25 and 45. This confirms the theory that previously non-political groups of disillusioned, delinquent young people and adults who are willing to commit violent acts are also becoming increasingly active in the context of political conflicts, in this case the question of further immigration;

(c) Nature of the commission of the offences. The study also confirms that the typical xenophobic criminal and violent acts are committed by groups or by persons belonging to groups. For the majority of xenophobic criminal and violent offenders it is possible to discover affinities for and membership of informal groups and cliques which are openly or latently xenophobic. To date therefore, these are young people with no political history and first offenders. According to the study, only a large minority have contacts with right-wing extremist groups and the skinhead scene;

(d) Causes. The motives and causes make up a complicated bundle. The radicalization of young people and the riots in which they take part are the result of a wide variety of causes. Political motives overlap with driving forces which develop out of personal situations and social careers, from the environment and from peer pressure. It is only in a small number of cases that the right-wing extremist groups themselves are the offenders. Personal experience with disintegration, in particular dropping out of school or unemployment, are only decisive, however, for a minority of xenophobic criminal offenders. The pressure of economic problems, the recession and the high unemployment rate, together with the immigration of new population groups, may also greatly contribute to an explanation of xenophobic violence. Economic problems and the high unemployment rate strike fear into the hearts of those who are not yet affected by them, but who live in fear that either they or other groups in society will be affected by them in the future.

116. The Federal Ministry of Justice commissioned Prof. Dr. Heitmeyer of Bielefeld University, to undertake a further study, the results of which are now available, which largely confirmed the suppositions with regard to the causes of xenophobic violence. (Wilhelm Heitmeyer, Joachim Müller, Fremdenfeindliche Gewalt junger Menschen. Biographical backgrounds, social situational contexts and the significance of criminal law sanctions. Edited by the Federal Ministry of Justice, Bonn: Forum Verlag 1995. See annexes.) The purpose of the research project was to carry out a detailed examination of the biographical backgrounds and the social contexts of xenophobic violence on the basis of an oral survey of selected convicted criminal offenders.

117. Some important results in outline:

(a) Forty out of 48 young offenders who were asked had had social disintegration experiences in their families;

(b) The level of formal education among right-wing extremists and xenophobic criminal offenders is below average;

(c) The unemployment factor on its own explains right-wing extremist and xenophobic violence only to a limited extent; what appears to be more important is the nature of the work;

(d) The xenophobic orientation of the overwhelming majority of the offenders who were asked was based primarily on fears of competition for work, accommodation, etc. or on feelings of their "own culture" being under threat; racist orientations in the sense of biological inequality were only discovered in the case of two of those asked;

(e) Most of those asked agreed on the one hand with the democratic system, whilst on the other hand criticized the reality of democracy;

(f) A breakdown of those participating in violent acts in the context of their belonging to a group revealed three contexts: right-wing extremist or neo-Nazi parties or groups, skinhead subculture and youth cliques;

(g) When questioned as to the reasons for their violent acts those questioned primarily pointed to alcohol consumed prior to the act and to previous provocations by other young people or groups, whilst a few also referred to "fun" and the "experience" of the violence;

(h) For a few of those asked, the sanctions imposed set limits for their own conduct; the fact of the punishment itself, rather than the extent of the punishment, was regarded as the significant factor.

118. The conclusions drawn by the authors from the results of the questionnaire are that preventive policy against violence and right-wing extremism and xenophobia must be oriented along the lines of the social, economic, communicative and political interests of the levels of society from which these young people and young adults come in order to be able to allow them to form a positive feeling for life and for their value as people without their wishing to isolate foreigners or other minority groups.

119. The considerable reduction in xenophobic criminal offences after the great waves of escalation and mobilization between August 1991 and July 1993 makes it clear that the development of patterns for xenophobic conduct and their mass escalation, as well as their dissemination, can be influenced by political, police and legal, as well as public, reactions.

4. The opinions of the German populace; action taken against xenophobia

120. The Federal President, the Federal Government and the parties in the Bundestag (the Federal Parliament), as well as the governments of the Länder, have repeatedly condemned right-wing extremist offences in the strongest terms. There was also a broad protest movement of the German population against right-wing extremist and xenophobic violence. The protests began on 8 November 1992 with a major demonstration in Berlin under the motto "The dignity of man is indivisible". Since then, many German towns have been the scene of similar activities - demonstrations, candlelight processions and

solidarity concerts - by which those attending have expressed their rejection of xenophobic ideas and activities. Many of these events were attended by several hundred thousand people. In Munich on 6 December 1993 400,000 people came together. The candlelight procession reached a total length of 45 km. This was the largest demonstration in the Bavarian capital since the end of the Second World War.

121. Private individuals and companies use newspaper advertisements to call for tolerance. Broadcasting organizations make radio and television slots available for famous personalities to appear advocating friendliness towards foreigners. German sports personalities campaign against xenophobia and racism in a wide variety of events. Posters in public places such as railway stations and bus stops call for a stand to be taken against racism and xenophobia. Schoolchildren run project weeks on this subject. School classes or private individuals become "godparents" for foreigners, for instance for those in asylum-seekers' accommodation. A wide range of activities are organized, particularly in schools and by pupils, to counter xenophobia. Disciplinary action has been taken in the case of individual incidents of xenophobic remarks in the workplace - including dismissal without notice.

122. Surveys have shown that the overwhelming majority of the population is not xenophobic. More recently, more than 70 per cent of the Germans who were asked stated that they consented to so many foreigners living in Germany; 94 per cent stated that they had no sympathy with violence against foreigners and 77 per cent stated that they would not wish to have right-wing extremists as neighbours. The attitude of the Germans towards the Jews is also largely positive.

123. A study specifically concerned with the attitudes of young people and young adults, "Young People and Young Adults in Germany", carried out between February and March 1995 also revealed that the great majority of young people clearly reject violent conflicts in democratic societies (old Federal Länder: 88 per cent, new Federal Länder: 88 per cent). Young people also distance themselves from the use of personal violence towards foreigners and asylum-seekers. The majority of them have no sympathy for violence against foreigners and asylum-seekers (Federal territory prior to German unification: 90 per cent, acceding territory: 86 per cent). The acceptance of foreigners and asylum-seekers is also documented by the fact that the great majority of the young people in Germany would be prepared to help foreigners themselves if they were attacked in front of them, or to call the police.

124. In order to be able to analyse developments in xenophobic attitudes in the long term, researchers at Trier University carried out a secondary analytical assessment of repeat questionnaires carried out among the populace which was commissioned by the Federal Government. This assessment shows that xenophobic attitudes have not become more prevalent in Germany in recent years. The proportion of extremely ethnocentric residents has more than halved in Germany from about 14 per cent in 1980 to roughly 6 per cent in 1990. The proportion of residents with a positive attitude increased during this period from 27 per cent to 47 per cent. The proportion of those who, for instance, wish to stop the subsequent entry of asylum-seekers' relatives altogether changed from 30.4 per cent in 1990 via 18.4 per cent in 1991 to

become 21.9 per cent in 1992. The proportion of those who wish to limit the subsequent entry of the relatives of this group of foreigners changed from 50.4 per cent via 67.1 per cent to 64.8 per cent in the same period.

125. Finally, it is also significant that right-wing extremist parties and groups have in the past not been able to play a major role in German politics.

5. Police and criminal law measures

126. The police and the justice system have accepted the challenge posed by right-wing extremism and xenophobia. All State agencies are doing their utmost in the fight against right-wing extremism and xenophobia.

(a) Structural measures

127. A survey carried out by the Federal Ministry of Justice with the Land administrations of justice on the measures taken there to combat right-wing extremist and xenophobically motivated offences revealed the following at the start of 1994.

128. Ten Federal Länder have established special areas, at least at the larger public prosecution offices, to combat right-wing extremists or xenophobically motivated criminal offences (Baden-Württemberg, Bavaria, Berlin, Bremen, Hamburg, Lower Saxony, North Rhine-Westphalia, Saxony, Schleswig-Holstein and Thuringia). The Länder Hesse, Rhineland-Palatinate and the Saarland have indicated that this kind of investigation proceedings is being dealt with in the political departments which have been established in the larger public prosecution offices.

129. The following fundamental organizational measures have been taken in the Länder:

(a) Hamburg: Establishment of a special department at the Land Criminal Office;

(b) Hesse: establishment of a constant exchange of experience between all agencies concerned in the prosecution of these offences, as well as special further training and the inclusion of the topic "violence against minorities, in particular xenophobic violence" in the working programme of the Hesse Government Committee of Experts for the Prevention of Crime (Prevention Council);

(c) Lower Saxony: special further training for court employees, the public prosecution offices and the police;

(d) Rhineland-Palatinate: inclusion of the central agency of the Land for combating publications glorifying violence or of a pornographic or other nature posing a risk to young people in investigation of offences under section 131 of the Code of Criminal Procedure (portrayal of violence);

(e) Thuringia: deployment of an inter-ministry commission in December 1992 to prepare a coordinated concept for combating xenophobic violence; proposal for a research project to be carried out by Jena University on "Group violence carried out by young people".

130. As well as the courts, the police also have a special role to play in the fight against xenophobic activities. It has become evident that conventional police methods are not sufficient in this respect. For this reason, not only the Federal Government, but also the Länder, which are responsible for the police service under the federal system of the Federal Republic of Germany, have resorted to a multiplicity of measures aimed at a more effective fight against xenophobic crime. These concern not only efforts to solve crimes, but also preventive measures, and holding a sufficient force on standby which can be quickly brought on to the scene if violence erupts. The Federation supports the Länder in their operations against right-wing extremists by making available units of the Federal Border Guard to combat xenophobic violence. Furthermore, the efforts of the Federal Criminal Office as well as of the Federal Office for the Protection of the Constitution have been considerably intensified.

(b) Preventive measures

131. The security and criminal prosecution authorities are doing their utmost to prevent further xenophobic incidents. They take advantage of all opportunities to prevent further violent acts and to prosecute those who are responsible for the offences with all means appropriate under the rule of law. Persons who take part in xenophobic incidents meet with the full force of the law.

132. Under the German federal system, both preventive protection of foreigners and measures of criminal prosecution are largely within the competence of the Länder. The criminal police take pains to investigate offences which have already been committed, whilst the ordinary police are deployed preventively in order to avert such crime. Independently of this, the Federal and Länder authorities for the protection of the Constitution are gaining knowledge of right-wing extremism and xenophobically motivated violence and providing it to the criminal prosecution authorities.

(c) Criminal prosecution measures

133. In the context of a special statistical survey information on investigation and criminal proceedings in respect of offences with a right-wing extremist or xenophobic background is gathered by the land administrations of justice and forwarded to the Federal Ministry of Justice:

134. In 1994, 16,472 investigation proceedings were initiated in respect of relevant offences. In almost 70 per cent of the proceedings it was a question of the dissemination of the propaganda of unconstitutional organizations, the use of the symbols of such organizations, incitement to hatred and violence and incitement to racial hatred (sects. 86, 86 a, 130 and 131 of the Code of Criminal Procedure). In 1994 the number of investigation proceedings initiated was roughly 30 per cent lower than in 1993; 16,626 proceedings were terminated in 1994. About two fifths of the proceedings terminated in 1993

had to be discontinued because it was not possible to identify the offenders. In 1994, 2,231 persons were convicted of relevant offences, upon 912 of whom youth custody and prison sentences were imposed; 94 persons were given custodial sentences of more than two years.

135. This shows that criminal prosecution is not limited to particularly spectacular violent crime. The results of the special survey also make it clear that the courts too are acting decisively against all offences intended to disseminate right-wing extremist and xenophobic concepts.

136. Both the offenders in the arson attacks in Mölln have been convicted of triple murder, multiple attempted murder and particularly grave arson. One of the two offenders was given life imprisonment, the other - because he was still an adolescent at the time of the offence - was sentenced to 10 years' youth custody (the maximum penalty). The sentences have the force of law.

137. The criminal proceedings in respect of the arson attack in Solingen have been terminated at first instance. One of the four offenders was given a prison sentence of 15 years for fivefold murder, multiple attempted murder and particularly grave arson, whilst the three others, who were still juveniles or adolescents at the time of the offence, received 10 years' youth custody each (the maximum penalty).

138. All the experts agree that the political, police and criminal law measures can together provide a clear signal and have a deterrent effect: xenophobic violent crime will be rapidly and thoroughly investigated and offenders will be quickly charged and convicted.

6. Accusations levelled at German police authorities

139. In connection with larger-scale xenophobic incidents in recent years, for instance in Rostock, Eberswalde or Magdeburg, as well as in other individual cases, German police officers have been accused of not affording sufficient protection to the foreigners concerned or of themselves mistreating foreigners out of xenophobic motives. The Federal Government has in all cases consistently investigated such claims in concert with the Land administrations of justice. The reports of the latter have revealed that the charges levelled at the police officers have not proven to be justified in any case.

140. The Federal Government recently made statements on several such cases to the United Nations Special Rapporteur on the question of torture and to the United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (see annexes).

141. In October 1994 working group II of the Conference of Ministers of the Interior proposed a research project which is to concern itself with specific causes and forms of expression of racism and xenophobia in the police. The results of the project, which have now been published, exculpate the police forces of the accusation of generalized xenophobia. There are no systematic behavioural patterns of xenophobic attacks by the police from which individual cases could be derived in an explainable manner. That having been said, it is possible to recognize structures which increase the danger of prejudices and attacks. At the same time, it has been documented that a large number of

initiatives have been taken in the past few years in training and further training in order to better prepare police officers for dealing with people of foreign origin, as well as for combating xenophobic offences.

7. Legislative measures

142. The current criminal legislation largely suffices as a means of effectively prosecuting and punishing. Experience gathered in particular in criminal prosecution has, however, revealed that there are problems in individual areas of a legal or factual nature for the solution of which the Act on the Suppression of Crime (Verbrechensbekämpfungsgesetz) has been adopted. The Act, which entered into force on 1 December 1994 includes, inter alia, the following regulations:

(a) Section 86 a, subsection 2, of the Criminal Code (use of symbols of unconstitutional organizations) to be extended to punish the use of symbols similar enough to be confused with those referred to in section 86 a, subsection 2, first sentence. Under the law as it stands, there are doubts as to punishability if symbols of prohibited National Socialist organizations are used in slightly changed form. The changes are intended primarily to facilitate simpler use in handing down rulings;

(b) Sections 86 and 86 a of the Criminal Code to be extended to cover the manufacture and storage for export, as well as the export itself, of the propaganda and symbols of unconstitutional organizations;

(c) Extension of the criminal provisions on incitement to hatred and violence and incitement to racial hatred (sects. 130 and 131 of the Criminal Code), in particular by insertion of new provisions in section 130 of the Code of Criminal Procedure, according to which anyone is subject to punishment who publicly or at a gathering approves of, denies or plays down the genocide committed under National Socialist rule in such a way as to be likely to disturb the public peace, or who disseminates writings with a similar content or makes them available to the public. Thus, it will be possible in future to punish such acts, in particular denial of the Holocaust, as incitement to hatred and violence to a greater extent than was previously the case;

(d) Stiffer penalties available for offences of bodily harm. These measures are not directly connected with violence with a right-wing extremist motivation, but do make clear the significance attached by the Federal Government to the legal interest of physical integrity in this light;

(e) Increased application of expedited proceedings if the facts of the case are simple or if the evidence is clear in order that the offence can be punished as rapidly as possible. If a prison sentence of at least six months is to be expected, accused persons who do not yet have defence counsel will be appointed counsel for the expedited proceedings before the local court;

(f) Amendment of section 112 a of the Code of Criminal Procedure with the aim of being able to impose remand detention in order to prevent a risk of repeat offences even if the accused had not been given a custodial sentence with the force of law within the past five years in respect of a similar offence, as is normally necessary. The new version takes account of the fact

that, in particular in combating right-wing extremist and xenophobic violence, certain criminal offenders cannot be prevented from further serious crime merely by the initiation of criminal law investigation proceedings, so that it can be indispensable for remand detention to be ordered, even if there has been no previous conviction, in order to avert the risk of a repeat offence;

(g) Extension of the possibility, already available in the case of certain of the most serious offences, to impose remand detention under less stringent preconditions because of the gravity of the offence, for instance with regard to crimes of particularly grave arson and the intention to commit serious bodily harm;

(h) Statutory rules on the establishment of a central public prosecution office information system which should lead to much better information for the criminal prosecution authorities. This rule is only indirectly linked to the xenophobic incidents of recent times, but will be particularly effective in countering the problem of travelling violent offenders with xenophobic motivations;

(i) Amendments to the Associations Act (Vereinsgesetz) in order to prevent, inter alia, right-wing extremist associations circumventing their prohibition, and the enforcement of the latter, by conspiratorial behaviour, by transferring assets of the association to members, or other evasive strategies.

8. Further State measures, in particular to provide information, clarification and education

143. In addition to the measures taken in the justice system and the police, special significance lies in information, clarification and education. A few of these measures are portrayed below as examples.

144. A long time before the wave of xenophobic offences, the Federal Government made its attitude to the use of violence and to xenophobia quite clear, in part by using publicity tools. In concert with the Federal Ministry of the Interior, in the autumn of 1991 the Press and Information Office of the Federal Government started a widespread campaign against xenophobia under the motto "Stop! No violence". Two television ads were produced for this. Further parts of the campaign were a publication on the topic of foreigners in Germany, stickers and badges, as well as a nationwide poster and ad campaign for which the publishers provided space for the ads free of charge. The readers of the youth magazine Bravo elected the ad as "Ad of the Year 1992" and gave it an award. With roughly DM 1.3 million from Federal funds, ads and films worth DM 8 million were disseminated in this campaign.

145. In December 1991 the periodical of the Press and Information Office of the Federal Government, "Political Information from Bonn", pointed out the contribution to prosperity and to the maintenance of the social security network in Germany made by foreign residents under the title "You pay the solidarity tax too" (more than 250,000 copies). In the November 1992 issue, the attitude of the Federal Government towards xenophobia, anti-Semitism and right-wing extremist violence was once more explained and emphasized with the cover page "The dignity of man is inviolable". The series of ads

commemorating the New Year 1993 in the whole daily press, as well as in the "Journal on Germany" supplement (more than 5 million copies) in the BILD newspaper on 2 January 1993, contained statements by the Federal Government on this topic. In it, campaigns against violence were again clearly emphasized and picked as a central theme.

146. In the series "practical tips", the Press and Information Office of the Federal Government, together with Berolina-Film GmbH, developed the series "Foreigners in Germany", which was finished as early as 1992 and has been broadcast on the ARD's local channels since the first half of 1993, as well as being used in the German Film Centre and the Picture Agencies of the Länder for schools and other educational institutions.

147. With documentation entitled "Foreigners and the German economy", printed in German and English, the Federal Ministry of Economics intends to help reduce prejudices against foreigners who work in the German economy. Ten arguments are intended to make it clear what economically positive effects foreign residents have in Germany as taxpayers, investors, business proprietors, employees, employers and consumers.

148. The overall programme of the Federal Government against violence is also a regular topic of the general conferences of journalists and "multipliers" (about 50 in the calendar year 1993). It is also a question here of increasing media awareness and inspiring restraint in situations where the media could become a platform for right-wing and left-wing extremist groups.

149. Together with a publishing house, the Press and Information Office of the Federal Government has prepared materials on the role played by violent and extremist groups in politics and society which is made available on request to interested teachers. Finally, the topic of readiness to commit violence and the attitude of the Federal Government was addressed in the 1993 publication "Politics for young people".

150. A special point of interest at present is the information campaign against extremism and xenophobia launched by the Ministers of the Interior of the Federation and the Länder in March 1993 under the motto "Fairness and understanding - respect for human dignity - no hatred of foreigners". The campaign has a dual function in that it is to inform and motivate. Young people in particular, but also the public as a whole, are informed of the origins, the background and the extent of violence, xenophobia and extremism. At the same time, young people in particular are motivated to think about how they behave towards foreigners and to search for ways of countering violence and xenophobia. To date DM 10 million have been spent, with the Federation and the Länder each providing half.

151. In the framework of this campaign, information material - a pupil and teacher book, a book for young people with the title "Basta - no to violence", an accompanying pedagogical hand out, the computer game "Dark Shadows", posters, stickers, badges and banners - were produced, ads were run in youth magazines and TV ads against xenophobia were broadcast.

152. The aim of continuing the campaign into 1994 was to increase the discussions about right-wing extremism and the problem of violence. Along with the book "Basta - no to violence" and the computer game "Dark Shadows", further preventive contributions were made in an attempt to immunize young people against violence, right-wing extremism and xenophobia. The book serves to communicate information. The computer game was specifically chosen as a medium which now attracts young people as hardly any other and which makes it possible to tackle these problems actively. Furthermore, the Federation and the Länder distributed approximately 370,000 posters nationwide carrying the message "Violence is the wrong choice", with which it was possible to reach a wide public, in addition to the main target group. More ads were run in special youth magazines intended to shore up the message of the poster with the right choice: "Fairness and Understanding".

153. A central advertising tool of the 1995 information campaign was a new poster with the slogan "Rapprochement instead of violence", which was once more given wide distribution. Further points of emphasis were cooperation with a major television channel in which the content of the campaign was incorporated in several episodes of a serial which was to urge young people to actively support the campaign, as well as Deutsche Bahn AG's participation in the 1995 Pop Tour which visited 40 German towns and concluded with pop parties in 17 towns on 30 September 1995. The information campaign is also to be continued in 1996 and 1997.

154. The campaign was well received by the populace. This is proven by the many requests for information and advertising material and offers of cooperation and, furthermore, the readiness of many people to support the campaign by their own activities, such as by passing out materials, by running ads free of charge, by wearing "Fairness and Understanding" T-shirts at sports events, by forming anti-violence groups, and by becoming committed to foreign residents.

155. It is a priority task of German interior politics to ensure that Germans and foreigners live together peacefully. The Federation and the Länder will not rest in their joint efforts to combat extremism, xenophobia and violence. Knowledge, fairness and understanding are the best ways to achieve a peaceful and satisfied life together all over Germany. For this reason the campaign is also being continued in the coming year. Young people in particular are to be further taught by means of a large number of measures to demonstrate that extremist ideologies do not offer suitable solutions to existing problems and that it is possible to communicate those values which replace hate with tolerance and violence with creativity and a willingness to take action oneself. Participation, tolerance and the absence of prejudices are to be supported by means of parallel measures also involving parents, schools, clubs and associations.

156. In addition, at the Federal Ministry of the Interior, in the framework of intellectual and political confrontation with extremism, violence and xenophobia, the following measures, among others, are being carried out:

(a) Seminars with "multipliers" from the youth press, the media in general, the fields of education and training, and youth and social work, as well as from the administrative apparatus;

(b) Preparation of brochures in the series "Texts of Internal Security" by the Federal Ministry of the Interior.

157. The long-term support of integration by the Federal Government has a preventive effect on xenophobia and racism.

158. In 1994, the Federal Ministry of Labour and Social Affairs spent about DM 90 million on integration measures for foreign workers and their family members, as well as on the furthering of the good relations between Germans and foreigners, and on public relations work in this area. The nationwide integration projects provided by the Ministry are concentrated on the support of:

(a) The transition from education to employment for the second and third generations of foreigners, in particular young peoples' motivation for education in the German dual vocational training system;

(b) Vocational training with additional social pedagogical care and specialist language courses, where needed, as well as bilingualism through binational training projects;

(c) Knowledge of German through language courses (since the creation of the Association Sprachverband Deutsch für ausländische Arbeitnehmer e.V. [German for Foreign Workers Association] in 1974, more than 1.1 million participants);

(d) Integration of foreign women into women's courses and model projects with the aim of breaking isolation, making the German language more comprehensible, vocational orientation and motivation towards vocational training;

(e) Integration of elderly foreigners taking into account their specific needs by developing corresponding conceptions and strategies for action, breaking the isolation of elderly foreigners and making the public aware of their problems;

(f) Social counselling of foreigners and creation of a care network in order to integrate the foreign contract workers in the former German Democratic Republic.

159. In public relations, support for integration and removal of prejudices against one another by portraying the normality of Germans and foreigners living together form the emphasis.

160. The Federal Ministry of Labour and Social Affairs supports the information magazine Foreigners in Germany for German and foreign "multipliers", as well as an editorial service for local editorial offices so that the topics integration and coexistence of Germans and foreigners can also be dealt with in the local press. The new (audio-visual) media are also being increasingly used. Thus, in the context of programming at Radio SFB 4 Multi-Kulti, the Federal Ministry of Labour and Social Affairs supports the series of programmes "Viaduct" as a forum of understanding. The lack of information on foreigners' countries of origin on the part of German

"multipliers" is reduced in regional studies seminars. Seminars on specific topics provide foreign and German "multipliers" with basic knowledge and experience in working with foreigners.

161. The coexistence of Germans and foreigners is furthered by means of specific model projects:

(a) Creation of regional coordinating agencies against xenophobia;

(b) Reduction of prejudices - accompanying measures of vocational training/retraining in the case of Germans and foreigners, e.g. by means of cooperative learning and working;

(c) Joint activities with German projects and groups, including for young Germans at risk of becoming xenophobes, in the context of projects aimed at the social and vocational integration of foreigners.

162. An advisory body at the Federal Ministry of Labour and Social Affairs is the coordination group "Foreign employees", in which all major Federal Ministries, groupings of the parties represented in the German Federal Parliament, trades unions and employers' associations, welfare organizations and social organizations, as well as three Länder, are represented. On principle, topics discussed concern integration policy at Federal level.

163. In the Federation-Länder Committee "Policy on foreigners" at the Federal Ministry of Labour and Social Affairs the Federal and Länder Ministries competent for matters concerned with foreigners, as well as the Federal Government's Commissioner for the Interests of Foreigners, are represented.

164. Both the coordination group and the Federation-Länder Committee have made the topic "countering xenophobia" a constant item on their agendas. Furthermore, the integration of foreign employees is a topic of discussions between the German Association of Trades Unions and the Federal Association of German Employers' Associations, with the participation of the competent Federal Ministries.

165. In the framework of its efforts to prevent violence, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth is supporting a large number of measures in order to counter violence, xenophobia and right-wing extremism. In the context of a special programme, since 1992 the creation of independent youth welfare organizations in the new Länder has been supported to the tune of DM 90 million. For the years 1992 through 1994, the then Federal Ministry for Family Affairs and Senior Citizens also financed a programme for the prevention of violence with a volume of resources amounting to DM 20 million per year in order to create structures in the new Federal Länder and to propose activities to specifically prevent and counter the growth of extremism and violence.

166. The programme of action of the Federal Government against aggression and violence, which had been in preparation since the summer of 1991, initiated in 1992, was financed between 1992 and 1994 to the tune of DM 20 million per year. DM 10 million are being provided per year for 1995 and 1996. This money is being used in 30 selected regions for violence-reducing and

violence-preventing youth work projects and leisure events with a cultural content and involving the educative impact of adventure pursuits, street social work projects, mobile youth work, community work, custodial accommodation, fan projects and other types of project. The first assessments show that the projects have been effective.

167. As well as the approximately 150 local youth work projects, additional information and further training are provided for voluntary and full-time specialized youth workers. They are intended to give workers in situ who work with the difficult problems and special risks connected with violent young people additional pedagogical insight and qualifying skills.

168. The experience of the programme is to be used by the Länder in order to continue and extend it on their own responsibility. Systematic analysis of the knowledge gathered through this programme is to make it transferable to other locations.

169. On the topic "violence/internal security" the Press and Information Office of the Federal Government has worked out a methodical and didactically prepared training series which is to serve teachers and adults in the new Länder in implementing this topic. Fifteen thousand copies of this topic file were printed.

170. In order to be able to approach young people directly, in past years the Press and Information Office of the Federal Government has supported a large number of seminars organized by the Deutsche Gesellschaft e.V. (German Society) with youth groups on the topic "Violence" and lent its support to a major event in Frankfurt/Oder.

171. The Länder and communes also carry out a wide variety of their own initiatives in this area, such as the touring exhibition in Baden-Württemberg with the title "Petty bourgeois and arsonists* - right-wing violence in Baden-Württemberg" and the media campaign "Sport for all - space for all - foreigners wanted" in Rhineland-Palatinate.

F. On article 7 of the Convention: combating racist prejudices at school

172. Reference is made to the annexes to this report and to the information provided on article 6.

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* A reference to a play by Max Frisch where a petty bourgeois watches arsonists at their work. A warning of the coming Nazi terror.

List of annexes and reference documentation

A. Annexes

1. Statement of the Federal Government on accusations against German police officers (I) and on four cases of alleged torture, submitted by the United Nations Special Rapporteur on torture (letter from the Centre for Human Rights dated 29 May 1995) (II), 6 pp.

2. Observations of the Federal Government on the cases relating to Germany mentioned in the report of the United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to the General Assembly at its forty-ninth session, 7 pp.

3. Note du Gouvernement de la République fédérale sur le rapport du Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée, présenté à la cinquante et unième session de la Commission pour les droits de l'homme, 4 pp.

4. Statement of the Federal Government on the letter dated 24 May 1995 of the United Nations Special Rapporteur on racism and xenophobia, 7 pp.

5. Observations of the Federal Government on the letter dated 15 September 1995 from the United Nations Special Rapporteur on racism and xenophobia, 17 pp.

B. Miscellaneous documents

1. Questionnaire of the European Commission against Racism and Intolerance: reply of the Government of the Federal Republic of Germany, 121 pp.

2. Analyse fremdenfeindlicher Straftäter, 82 pp.

3. Offensive gegen Gewalt und Fremdenfeindlichkeit, 45 pp.

4. Maßnahmen der Bundesländer gegen Gewalt und Fremdenfeindlichkeit, 180 pp.

5. Fremdenfeindliche Gewalt junger Menschen; biographische Hintergründe, soziale Situationskontexte und die Bedeutung Strafrechtlicher Sanktionen, von Wilhelm Heitmeyer und Joachim Müller, 187 pp.

6. Death of Nigerian nationals in Germany: information supplied by the competent Länder authorities with regard to the background of the deaths specified, 7 pp.

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

COLLECTION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Fourteenth periodic report of States parties due in 1996

Addendum

PAKISTAN*

[7 June 1996]

Introduction

1. In accordance with article 9, paragraph 1 (b), of the International Convention on the Elimination of All Forms of Racial Discrimination, the Government of Pakistan has periodically informed the Committee on the steps taken by it to implement the provisions of the Convention to which Pakistan became a party by ratification in 1969.

2. The ninth periodic report of Pakistan was considered by the Committee during its thirty-fourth session in August 1986. The present report supplements the information given earlier. An effort has been made to adhere

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* This document contains the tenth, eleventh, twelfth, thirteenth and fourteenth (consolidated) periodic reports due on 5 January 1988, 5 January 1990, 5 January 1992, 5 January 1994 and 5 January 1996 respectively. For the ninth periodic report of Pakistan and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/SR.796-797.

to the general guidelines in the preparation of the report and to take into account the valuable comments and observations made by the Committee during its consideration of Pakistan's last periodic report.

I. GENERAL

3. Pakistan is committed to the elimination of racial discrimination in all its forms and manifestations as a matter of policy and conviction. It has remained in the vanguard of the struggle against racism and racial discrimination, in its institutional form or otherwise, and for equality of all individuals irrespective of their race, colour or creed.

4. Pakistan played a leading role in the elimination of apartheid and continues to play an active role in the elimination of new forms of racial discrimination and xenophobia. Pakistan is a party to the International Convention on the Suppression and Punishment of the Crime of Apartheid and participated in the elaboration of the International Convention on the Elimination of All Forms of Racial Discrimination.

5. As a State party, Pakistan continues to uphold and implement the provisions of the Convention and has made efforts to translate the provisions of the Convention into its legal framework. Therefore, the Constitution of the Islamic Republic of Pakistan and its Penal Code constitute an overall legal framework giving effect to the provisions of the Convention.

6. Furthermore, the principles of brotherhood, equality and tolerance towards all are basic tenets of the Islamic faith and are duly embodied in th country's Constitution. Islamic teachings prohibit discrimination of any kind on the basis of race, colour, caste, language or creed. The Constitution of Pakistan provides that all laws in Pakistan would be in conformity with Islamic precepts and, as such, legislative and administrative measures taken by the Government of Pakistan to implement the Convention are reinforced by Islamic teachings on brotherhood, equality and tolerance towards all.

7. The Constitution of the Islamic Republic of Pakistan obligates the State to discourage parochial, racial, tribal, sectarian and provincial prejudices. Moreover, it guarantees fundamental rights to each citizen irrespective of his/her race, religion, caste, sex, residence or place of birth. Equality before the law and equal protection by the law is accorded to each citizen. There are several specific provisions in the Constitution which prohibit discrimination on the basis of race, religion, caste or sex. The text of these constitutional provisions is annexed* as well as reproduced where considered appropriate. Additional measures taken by the Government of Pakistan to protect and promote the rights of minorities have also been elaborated in the report.

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* Available for consultation in the files of the Centre for Human Rights.

8. Since the submission of Pakistan's ninth periodic report, the process of democratization has been completed. Constitutional and fundamental rights have been fully restored, the supremacy and independence of the judiciary have been re-established and foundations have been laid for consolidation of democratic institutions in accordance with the Constitution and aspirations of the people. Successful elections to the National and Provincial Assemblies were held in 1988, 1990, 1993. Minorities and other sections of the population are duly represented in the provincial and national legislatures. The interests and rights of all citizens are respected and protected under the law.

9. The process of democratization and the introduction of measures for the protection and promotion of human rights in Pakistan have reinforced the capacity of the Government and the State organs to fully implement the provisions of the Convention in letter and spirit.

10. During the consideration of Pakistan's ninth periodic report, the distinguished members of the Committee had requested additional information on various aspects of the report submitted. An effort has been made to respond to those observations in the following paragraphs.

Legal framework

11. Following the lifting of martial law, the Constitution has been restored fully. Measures introduced during the martial law period have been repealed and replaced by the rule of law as provided for under the Constitution.

12. The Constitution can only be amended by the Parliament. Some of the amendments which were introduced prior to the submission of Pakistan's last report do not in any way impede the implementation of the provisions of the Convention. No new amendment has been made to the Constitution.

13. In Pakistan Islamic and common law complement each other. Islam guarantees equality before law and equal protection by law to all citizens as well as freedom, equality, tolerance and social justice.

14. Article 4 of the Constitution provides that it is the inalienable right of every citizen to enjoy the protection of law and to be treated in accordance with the law. Similar protective measures are also provided in the Pakistan Penal Code.

Population

15. The last population census was carried out in Pakistan in 1981. The figures contained therein were provided to the Committee in Pakistan's last report. Unfortunately the Fifth Population and Housing Census of Pakistan has not been conducted so far. The latest figures on different populations are therefore not available. However, an adviser/expert from the United Nations, Mr. J.G.C. Blaker of the London School of Hygiene and Tropical Medicine, has developed population projections for Pakistan from mid-1981 to 2001 using 1981 census figures by assuming declining mortality and constant fertility levels.

16. According to his projections, the total population of Pakistan in mid-1996 is estimated at 137 million with a sex ratio of 107 in favour of males. Using the proportion of minorities of the 1981 census, i.e. 3.32 per cent of the population, the estimated mid-1996 population of minorities comes to 4.6 million.

17. Data on ethnic origin are not collected in the country's decennial census or otherwise; the Government of Pakistan therefore regrets that it is unable to provide this information to the Committee.

Languages

18. Pakistan consists of four provinces, namely, Punjab, Sindh, North West Frontier Province (NWFP) and Balochistan. Urdu is the national language while Punjabi, Sindhi, Pushto, Balochi and a few other languages are spoken in different parts of Pakistan. No direct question on mother tongue was asked in respect of individuals in the 1981 census. However, a question was asked about languages spoken in the household. The percentage of different languages spoken in Pakistan is as under:

Languages	Percentage
Urdu	7.60
Punjabi	48.17
Pushto	13.15
Sindhi	11.77
Balochi	3.02
Brahvi	1.21
Hindko	2.43
Siraiki	9.84
Others	2.81

19. By applying this proportion of languages spoken in households, an approximate calculation can be made on the basis of the estimated 1996 population.

20. The question on mother tongue is being asked on an individual basis in the fifth census which, as indicated earlier, has not yet been held. Data on this could be made available as and when the census is held.

Press censorship

21. The press in Pakistan enjoys total freedom and there is no censorship. The Government of Pakistan believes that a free press is an essential requisite for promoting democracy in the country and for ensuring accountability of the members and functionaries of the Government.

Minorities

22. The interests and the rights of minorities are fully protected in Pakistan. They constitute about 3.32 per cent of the total population and consist of Christian, Hindus, Ahmadis, Parsis, Buddhists and Sikhs.

23. The position mentioned in the report submitted by Pakistan during 1986 has considerably changed. A number of new institutions and forums have been established which are helping to resolve the problems being faced by minorities in the country. A number of new schemes and measures have been introduced for the welfare and uplift of minorities. Some of the measures undertaken by the Government are given below.

Institutional arrangements

24. Minorities Affairs Division. A separate division has been established in the Federal Government for:

(a) Safeguarding the rights of the minorities, as guaranteed to them by the Constitution of the Islamic Republic of Pakistan;

(b) Promotion of the welfare of minorities;

(c) Protection of minorities against discrimination;

(d) Representation of Pakistan in international bodies and conferences relating to minorities, including the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

(e) International agreements and commitments in respect of minorities and their implementation.

25. National Commission for Minorities. To promote the welfare and uplift of minorities and to protect and safeguard their religious, social and cultural rights, the Government has constituted a high-powered National Commission for Minorities under the chairmanship of the Minister for Minorities Affairs. The Commission is represented by all segments of minorities living in Pakistan. The terms of reference of the Commission are as under:

(a) To consider such laws, executive instructions, orders or procedural practices of the Government or government agencies, autonomous and semi-autonomous bodies and agencies, which are reported to be discriminatory towards minorities;

(b) To recommend to the Government such steps as shall ensure fuller and effective participation by the members of minority communities in all aspects of national life;

(c) To ensure their full and effective participation and association with their religious and cultural festivals and celebrations;

(d) To look into the grievances and representations made by the members of any minority community to the Government of Pakistan; after examination of such grievances, to make suitable recommendations to the Government of Pakistan;

(e) To ensure that churches, shrines, temples, gurdwaras and other places of worship of minority communities are preserved and kept in a functional condition.

26. Federal Advisory Council for Minorities Affairs. An Advisory Council for Minorities Affairs comprising, among others, 65 non-official members has been set up under the auspices of the Minorities Affairs Division.

27. The Council advises the Government on matters concerning the welfare of minorities. The meetings are held periodically. The Government formulates its policies in the light of the recommendations of the Council. Non-official members of the Council consist of all the minority members of the National and Provincial Assemblies and other prominent members of the minority communities throughout Pakistan.

28. District Minority Committees. District Minority Committees have been set up in all the districts of the country. The idea is to look into the day-to-day problems of the minorities and to resolve them at their doorstep. The Committees are headed by Deputy Commissioners/Additional Deputy Commissioners and are composed of members belonging to minority communities residing in the district.

29. National Committee on the Kalash People. On the directive of the Prime Minister, a National Committee comprising the concerned Members of the National Assembly (MNAs), representatives of the concerned ministries/divisions and the provincial government of NWFP has been set up to protect and preserve the Kalash people and their culture.

30. Monthly meetings with minority MNAs. Meetings with minority MNAs are held to sort out the problems being faced by the minorities and to discuss the various measures for their solution.

31. Local bodies. On the basis of their numerical strength, seats in local bodies such as union councils, town committees/municipal committees, municipal corporations, cantonment boards, metropolitan corporations, etc. have been reserved for minorities. These seats are filled by elections with the votes of minorities of the area and only persons belonging to minorities can contest elections for these reserved seats. The elected councillors play a vital role in solving problems of a local nature faced by the minority communities.

32. Seminar on the uplift of minorities and the electoral system. With a view to identifying and mitigating the hardships of minority communities, a seminar on the uplift of minorities and the electoral system was organized by the Minority Affairs Division under the directive of the Prime Minister. The seminar was held at Peshawar on 23-24 August 1995 and attended by 18 minority members of provincial assemblies (MPAs) from all the four provinces. A large number of recommendations having far-reaching effects were made during the seminar which are being examined by the provincial governments, federal ministries/divisions to assess their implementability.

33. Special meeting on matters relating to minorities. A meeting was held on 13 March 1996, under the chairmanship of Senator Sayed Iqbal Haider, Senator in charge for Human Rights, with prominent members of minority communities including minority MNAs, to invite suggestions/recommendations for the quick grant of relief to those members of minority communities in respect

of the problems confronted by them in various fields. The meeting made recommendations regarding reactivation of district minority committees, provision of cremation grounds/graveyards, undoing of maltreatment/discrimination, and resolution of educational problems. These have since been referred to the provincial governments/federal ministries/divisions concerned for implementation.

Welfare schemes

34. Pakistan minorities welfare fund. Out of this fund an amount of Rs. 5,846,000 has been spent on the award of scholarships to minority students. Details are given below:

Year	No. of students granted scholarships	Amount
1993/94	947	1 694 000
1994/95	3 459	4 152 000
Total	4 406	5 846 000

35. Special fund for the welfare and uplift of minorities. The above funds are allocated to minority MNAs on the basis of population of minority communities which they represent and disbursed through them for the following purposes:

(a) Financial assistance to needy persons;

(b) Acquisition/improvement of burial places and repair/renovation of places of religious importance;

(c) Development schemes (exclusively for minorities).

36. The details of expenditure and number of schemes undertaken during the present Government are given below:

(a) Financial assistance. An amount of Rs. 33,906,000 was disbursed among 20,500 needy persons belonging to minorities during the period under review;

(b) Acquisition/improvement of burial places and repair/renovation of places of religious importance. An expenditure of Rs. 21,392,000 was incurred for 126 schemes during the period under review;

(c) Development schemes. The details of development schemes undertaken for the welfare and uplift of minorities during the period under review are given below:

Year	No. of schemes	Expenditure
1993/94	96	19 211 842
1994/95	202	34 828 630
1995/96	42	9 100 717
Total	340	63 141 175

37. Discretionary fund. An expenditure of Rs. 1,711,300 has been incurred on payment of financial assistance to 255 needy minority persons during the period under review.

38. Sending of low-paid Christian employees to visit their holy places in Rome. The Prime Minister approved this scheme last year. This facility was extended to minority communities for the first time in the history of Pakistan. Under this scheme 10 low-paid government employees belonging to the Christian community visited the Vatican City. During the current year visits by 50 low-paid Christian employees of the Federal Government and provincial governments have been approved by the Prime Minister for visiting the holy places.

39. Gift scheme/financial assistance to various minorities on the occasion of their religious festivals. During the period under review an amount of Rs. 11.5 million was distributed among the 8,255 members of minorities during their religious festivals like Christmas, Diwali, etc.

40. Cultural awards for minorities. In order to preserve and promote the culture of minority communities of Pakistan, the Government of Pakistan has introduced a scheme of national cultural awards exclusively for minorities. Under this scheme, awards, accompanied by a cash prize of Rs. 50,000, are granted each year in the fields of literature, fine arts, performing arts and folk arts. Fifty talented persons of various minorities have benefited from this scheme.

41. Cultural identity of the minorities. The Constitution of Pakistan states that "any section of citizens having a distinct language, script or culture shall have the right to preserve and promote the same and subject to law establish institutions for that purpose". The President of Pakistan has instituted awards of "pride of performance" at the national level which are awarded also to the minorities. A number of talented individuals belonging to minority groups who have excelled in the field of arts, sciences, literature, music, etc. have received the award.

42. Afghan refugees. A large number of Afghan refugees had entered Pakistan as a result of foreign military intervention and fighting in Afghanistan since 1979. At one stage they numbered well over 3 million. Most of them lived in refugee villages awaiting return to their homeland in safety and honour. They were provided with substantial humanitarian assistance by the Government of Pakistan, the United Nations High Commissioner for Refugees and some other donors. Although a substantial number of refugees have returned to Afghanistan, about 1.2 million continue to remain in Pakistan. The main

reason is the continued internal conflict in Afghanistan, the destruction of the Afghan economy and infrastructure and the presence of land-mines in the fields and villages. Pakistan hopes that the various Afghan groups will reach agreement for national reconciliation and end their fratricidal conflict and thus create conditions conducive for the return of the Afghan refugees.

43. The people and Government of Pakistan greeted the refugees with open arms and offered generous hospitality to one of the largest case-loads of refugees in history. Despite the large number of refugees and their concentration in particular areas of Pakistan, there was no significant friction with the local people. They were allowed freedom of movement, employment and speech. There was no discrimination against the refugees. They were provided all rights, except, of course, political rights reserved to the citizens of Pakistan.

44. Pakistan believes that the presence of Afghan refugees in Pakistan is temporary and that they will return to Afghanistan as soon as conditions permit.

45. Pakistan supports the efforts of the United Nations to facilitate national reconciliation and reconstruction in Afghanistan, in particular by ensuring transfer of power through urgent establishment of a fully representative and broad-based authoritative council with authority, inter alia:

(a) To negotiate and oversee an immediate and durable cease-fire;

(b) To create and control a national security force to provide for security throughout the country and oversee the collection and safeguarding of all heavy weapons in the country, and to stop the flow of arms and equipment related to arms production to the parties;

(c) To form an acceptable transitional government which could, inter alia, control the national security force, until conditions for free and fair elections are established throughout the country, possibly utilizing traditional decision-making structures, such as a grand assembly, to help establish those conditions.

46. The above-mentioned measures, the Government of Pakistan hopes, would create conditions conducive to the early return of the Afghan refugees to their homeland.

II. INFORMATION IN RELATION TO ARTICLES 2 TO 7

Article 2

47. Pakistan has consistently condemned racial discrimination. It has pursued by all means available a policy of eliminating discrimination in all its forms and promoting understanding among all segments of its society. The Constitution of the Islamic Republic of Pakistan prohibits any discrimination based on religion, race, caste or sex. Equality before the law and equal protection by the law is ensured to all citizens of Pakistan under the Constitution.

48. Specifically:

(a) Pakistan has never engaged in any act or practice of racial discrimination against persons, groups of persons or institutions and ensures that all public authorities and public institutions, national and local, act in conformity with the obligation contained in paragraph 1 (a) of article 2. Article 33 of the Constitution dictates that the State shall discourage parochial, racial, tribal, sectarian and provincial prejudices among citizens;

(b) Pakistan has never sponsored, defended or supported racial discrimination by any persons or organizations;

(c) Pakistan has never had any policies or laws and regulations which would have had the effect of racial discrimination. However, it actively reviews policies so as to make them more effective in ensuring participation by all segments of the society in the polity of the nation. Article 36 of the Constitution states that the State shall safeguard the legitimate rights and interests of minorities including due representation in the federal and provincial services.

49. Regarding the provisions of paragraph 2 of article 2 of the Convention, it is stated that article 37 (a) of the Constitution directs that the State shall promote, with special care, the educational and economic interests of the backward classes or areas. Article 38 (a) provides that the State shall secure the well-being of the people, irrespective of sex, caste, creed or race, by raising their standard of living, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of the general interest and by ensuring equitable adjustment of rights between employers and employees and landlords and tenants.

50. The Government is fully responsive to the development needs of the less developed areas. Several programmes have been initiated by the Government in the social sector.

51. The present Government accords high priority to the socio-economic empowerment of the people. The spending level on the social sector has gone up by 33 per cent. A comprehensive Social Action Programme has been launched to address priority areas like health, population welfare, women's development, labour and manpower, minority affairs, environment and culture. The Social Action Programme has the following four major components:

(a) Basic education, for which 30,400 new schools will be constructed and another 9,800 existing ones will be renovated. About 7 per cent of such schools will be for girls. This will involve recruitment of about 35,000 female teachers and 18,500 male teachers;

(b) Primary health care and nutrition, for which 300 unfinished rural health facilities in Sindh, carried over from the Seventh Five Year Plan, will be completed and 200 new rural health facilities will be built in Balochistan, and 33,000 village health and family planning workers will be trained by the year 1997;

(c) Population welfare, for which the population growth rate, which stands at 2.9 per cent, will be brought down to 2.6 per cent by the year 1998 by delivering expanded services through additional recruitment and training of 4,000 village family planning workers, increased service delivery points, doubling the number of mobile service units, and the strengthening of population information activities;

(d) Rural water supply and sanitation, for which numerous development schemes will be launched throughout the country.

Article 3

52. Pakistan has always believed that the policies of apartheid, racial segregation and discrimination are not only repugnant to the ideals of any human society but also socially unjust, morally condemnable and legally untenable. Racial superiority has no scientific basis. Pakistan has condemned racial segregation and apartheid as a crime against human dignity and considers it contrary to the Charter of the United Nations and the Universal Declaration of Human Rights and to the moral values of mankind.

53. The policy of apartheid as practised by South Africa was unreservedly condemned by Pakistan. Pakistan remained in the forefront of the international campaign against the racist Pretoria regime and observed a complete boycott of the regime in so far as political, diplomatic, economic, social, cultural, sports or other contacts were concerned. Pakistan welcomed the restoration of democracy in South Africa following the official dismantling of the apartheid system, and welcomed South Africa to the United Nations and to the Commonwealth. Pakistan now enjoys warm and cordial relations with the Government of South Africa and has full diplomatic and economic relations with it.

54. The problem of racism and racial discrimination does not exist in Pakistan and the Government has taken effective measures to prevent incitement to or acts of discrimination based on theories of superiority of race, colour or ethnic origin.

Article 4

55. The purposes, objectives and spirit of article 4 of the Convention are given full effect by the provisions of the Constitution and the Pakistan Penal Code. The application of the law is not only limited to acts which disturb public tranquillity or cause alarm, but also to acts which promote or incite or attempt to promote or incite, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities. In Pakistan public or private organizations cannot propagate, promote or incite racial discrimination.

Article 5

56. Irrespective of race, colour, creed or sex every citizen of Pakistan is equal before the law and enjoys equal protection provided under the various legal provisions.

57. The Government of Pakistan has always endeavoured to protect and promote civil and political rights as well as economic, social and cultural rights of all citizens. The elected Government of Pakistan has initiated some far-reaching measures for protection and promotion of human rights in Pakistan and for the economic and social uplift of the people. These measures, along with the total implementation of the provisions of the Constitution and the law, adequately cover the provisions in article 5.

58. Specifically:

(a) The right to equal treatment before the tribunals and all other organs administering justice is protected under article 25 of the Constitution. It states "All citizens are equal before the law and are entitled to equal protection of the law.";

(b) The right to security of person and protection by the State against bodily harm, whether inflicted by government officials or by any individual group or institution, is ensured through articles 25 (quoted above), articles 9 and 10 and article 14 of the Constitution, quoted below:

"Article 9

"No person shall be deprived of life or liberty save in accordance with the law."

"Article 10

"(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.

"(2) Every person who is arrested and detained in custody shall be produced before a magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the nearest magistrate, and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

"(3) Nothing in clauses (1) and (2) shall apply to any person who is arrested or detained under any law providing for preventive detention.

"(4) No law providing for preventive detention shall be made except to deal with persons acting in a manner prejudicial to the integrity, security or defence of Pakistan or any part thereof, or external affairs of Pakistan, or public order, or the maintenance of supplies of services, and no such law shall authorize the detention of a person for a period exceeding three months unless the appropriate Review Board has, after affording him an opportunity of being heard in person, reviewed his case and reported, before the expiration of the said period, that there is, in its opinion,

sufficient cause for such detention, and, if the detention is continued after the said period of three months unless the appropriate Review Board has reviewed his case and reported, before the expiration of each period of three months, that there is, in its opinion, sufficient cause for such detention.

Explanation I In this article, 'the appropriate Review Board' means

(a) In the case of a person detained under a Federal law, a Board appointed by the Chief Justice of Pakistan and consisting of a Chairman and two other persons, each of whom is or has been a Judge of the Supreme Court or a High Court; and

(b) In the case of a person detained under a provincial law, a board appointed by the Chief Justice of the High Court concerned and consisting of a Chairman and two other persons, each of whom is or has been a Judge of a High Court.

Explanation II The opinion of a review board shall be expressed in terms of the views of the majority of its members.

"(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, within fifteen days from such detention, communicate to such person the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order

provided that the authority making any such order may refuse to disclose facts which such authority considers it to be against the public interest to disclose.

"(6) The authority making the order shall furnish to the appropriate review board all documents relevant to the case unless a certificate, signed by a Secretary to the government concerned, to the effect that it is not in the public interest to furnish any documents, is produced.

"(7) Within a period of twenty-four months commencing on the day of his first detention in pursuance of an order made under a law providing for preventive detention, no person shall be detained in pursuance of any such order for more than a total period of eight months in the case of a person detained for acting in a manner prejudicial to public order and twelve months in any other case

provided that this clause shall not apply to any person who is employed by or works for, or acts on instructions received from, the enemy or who is acting or attempting to act in a manner prejudicial to the integrity, security or defence of Pakistan or any part thereof or who commits or attempts to commit any act which

amounts to an anti-national activity as defined in a Federal law or is a member of any association which has for its objects, or which indulges in, any such anti-national activity.

"(8) The appropriate Review Board shall determine the place of detention of the person detained and fix a reasonable subsistence allowance for his family.

"(9) Nothing in this Article shall apply to any person who for the time being is an enemy alien."

"Article 14

"(a) The dignity of man and, subject to law, the privacy of home, shall be inviolable.

"(b) No person shall be subjected to torture for the purpose of extracting evidence."

"(c) Political rights, in particular the rights to participate in elections are guaranteed. Previously, in an effort to ensure adequate representation of minorities in the legislature a system of separate electorates was used, with minorities voting for representatives from their own communities. However, the minorities had expressed dissatisfaction with this system. The Special Rapporteur on religious intolerance, who visited Pakistan in June 1995, had also recommended the abolition of the system. Therefore, a new system has been instituted. The minorities would have the right to vote for their representatives as well as to participate in the regular election procedure. Article 27 (1) of the Constitution states, 'No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground of only race, religion, caste, sex, residence or place of birth.';

"(d) In regard to other civil rights such as:

(i) The right of freedom of movement and residence within the border of the State, article 15 of the Constitution states, 'Every citizen shall have the right to remain in and subject to any reasonable restriction imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof.';

(ii) There is no bar on anyone leaving the country or returning to it; however, there is no specific article in the Constitution covering it;

(iii) The right to marriage and choice of spouse is governed by personal law and there is no provision in the Constitution regarding it. Under Muslim law, a Muslim adult, whether he is a male or a female, has the right to marry a person of his or her choice;

(iv) The right to own property alone as well as in association with others is ensured through articles 23 and 24, which read as follows:

"Article 23

"Every citizen shall have the right to acquire, hold and dispose of property in any part of Pakistan, subject to the Constitution and any reasonable restrictions imposed by law in the public interest."

"Article 24

"1. No person shall be deprived of his property save in accordance with the law.

"2. No property shall be compulsorily acquired or taken possession of save for a public purpose and save by the authority of law which provides for compensation therefor and either fixes the amount of compensation or specifies the principles on and the manner in which compensation is to be determined and given ..."

(v) The rights to freedom of thought, conscience and religion and the right to freedom of opinion and expression are covered by articles 19, 20 and 21, quoted below:

"Article 19

"Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court or [commission of] or incitement to an offence."

"Article 20

"Subject to law, public order and morality,

"(a) every citizen shall have the right to profess, practice and propagate his religion and

"(b) every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions."

"Article 21

"No person shall be compelled to pay any special tax the proceeds of which are to be spent on the propagation or maintenance of any religion other than his own.";

(vi) The right freedom of peaceful assembly and association is ensured through article 16 of the Constitution which states, 'Every citizen shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order.';

"(e) Rights such as the rights of work, to free choice of employment, to just and favourable conditions of work, to equal pay for equal work and to just and favourable remuneration are covered by articles 16, 17 (1) and 18 of the Constitution. The text of article 16 has already been given above.

"Article 17

"(1) Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality."

"Article 18

"Subject to such qualifications, if any, as may be prescribed by law, every citizen shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business:

"Provided that nothing in this article shall prevent:

"(1) the regulation of any trade or profession by a licensing system; or

"(2) the regulation of trade, commerce or industry in the interest of free competition therein; or

"(3) the carrying on, by the Federal Government, or by a corporation controlled by any such Government, of any trade, business, industry or service, to the exclusion, complete or partial, of other persons."

"(f) The right to form and join trade unions is covered under article 17 reproduced above;

"(g) The rights to housing, public health, medical care, social security and social services, education and training and equal participation in cultural activities are covered by the principles of policy in the Constitution of Pakistan that the State shall provide all

citizens with basic necessities of life such as food, clothing, housing, education, medical care, social security, etc., subject to the availability of resources.

"Article 38

"The State shall -

"(a) secure the well-being of the people, irrespective of sex, caste, creed or race, by raising their standard of living, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of general interest and by ensuring equitable adjustment of rights between employers and employees, and landlords and tenants;

"(b) provide for all citizens, within the available resources of the country, facilities for work and adequate livelihood with reasonable rest and leisure;

"(c) provide for all persons employed in the service of Pakistan or otherwise, social security by compulsory social insurance or other means;

"(d) provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective of sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment;

"(e) reduce disparity in the income and earnings of individuals, including persons in the various classes of the service of Pakistan.";

"(h) The right of access to any place or service intended for use by the general public such as transport, hotels, restaurants, cafes, theatres and parks is addressed by article 26 (1) of the Constitution:

"Article 26

"(1) In respect of access to places of public entertainment or resort, not intended for religious purposes only, there shall be no discrimination against any citizen on the ground only of race, caste, sex, residence or place of birth".

Article 6

59. As stated earlier, every citizen of Pakistan, irrespective of his origin, faith or sex, enjoys the fundamental human rights and freedoms provided for in the Constitution without any discrimination. These rights fully conform to the provisions of the Convention. The judiciary is totally independent and fully competent to enforce the constitutional rights and those provided under

the law which does not discriminate between the citizens of Pakistan. All citizens have the right to seek redress for alleged or perceived infringements of their rights by the courts of law in Pakistan.

Article 7

60. The Government of Pakistan recognizes the key role education plays in economic growth, social development and general awareness amongst the people. It accords the highest priority to education and improvement of the literacy level which unfortunately continues to be as low as 35 per cent. The Government has launched a mass literacy programme in the formal and informal sectors. The policy objectives have been fully backed by concrete initiatives and resource provisions made in the Eighth Five Year Plan and the Social Action Programme. An unprecedented increase has been made in the financial outlay for education. This is meant for improving and expanding education infrastructure, especially increasing the number of primary schools all over the country. The Plan envisages that by 1998 enough schools would have been established and places created to enrol almost all boys and girls of 5 to 9 years of age.

61. To ensure that education continues to receive its due share in the coming years and successive Governments do not lower the priority assigned to it in matters of financial allocation, a law has been framed which will guarantee that a minimum of 3 per cent of GNP is spent on education by the year 2000. Measures to increase public-private partnership, curriculum improvement, teacher training, testing services, etc., have been initiated and it is expected that they will have far-reaching results. The National Education and Training Commission has been reactivated for increasing adult literacy. A computer literacy programme has also been launched in collaboration with IBM to prepare the younger generation in the use of technology which is fast becoming a way of life.

62. The Government of Pakistan feels that for people to enjoy the rights they have it is important that they should be aware of their rights and obligations. The Ministry of Human Rights which has been recently established has launched an awareness programme in the field of human and legal rights. This awareness programme is being carried out through the print and electronic media. It is also proposed that human rights as a subject would be included in the curriculum at the schools. The Ministry of Human Rights is also in the process of establishing complaint cells where an aggrieved person who feels that this or her rights have been violated can approach and seek redressal for his or her grievances.

63. Religious education of any sect or denomination is optional. There are several educational institutions managed and run by members of the minority communities, particularly the Christian missionaries, without any hinderance or discrimination.

64. Educational goals as well as the content and method of education are wholly consistent with and are designed to promote the purposes and principles en..rined in the Charter of the United Nations and international human rights instruments, including the International Convention on the Elimination of All

Forms of Racial Discrimination. At the university level students are encouraged to undertake research on subjects related to promotion of understanding, tolerance and friendships among nations.

65. Culture, like democracy, is of the people, by the people and for the people. Therefore, an important policy initiative taken by the Government was to democratize culture and decentralize activities to give recognition to the regional heritage of languages and literature, to reorganize important national bodies, revitalize cultural institutions and, above all, to revive and promote equal participation by women in all sectors, including sports.

66. The National Institute of Folk Heritage (Lok Virsa), which falls under the Ministry of Culture, has been established to promote and project understanding, tolerance and friendship among the people of Pakistan through cultural programmes. All publications, video and audio cassettes and programmes of the National Institute of Folk Heritage focus on projection of social harmony and tolerance at intra-national and international levels. The Institute basically reflects the message of peace and harmony in the folk culture of various regions in Pakistan.